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The Commonwealth of Massachusetts
Massachusetts Senate

TOWARD EXPANDED GAMING:
A Review of Gaming in Massachusetts
(Senate 1743)

TOWARD GAMING REGULATION:
Part I: Crime
(Senate 100)

TOWARD GAMING REGULATION:
Part II: Problem Gambling, and Regulatory Matters
(Senate 1590)

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Senate Committee
on Post Audit and Oversight

Senator Thomas C. Norton, Chairman

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Commonwealth of Massachusetts

MASSACHUSETTS SENATE

The Honorable William M. Bulger
President of the Senate

TOWARD EXPANDED GAMING:
A Review of Gaming in Massachusetts

(Senate 1743)

A Report of the

SENATE COMMITTEE ON POST AUDIT AND OVERSIGHT

Sen. Thomas C. Norton, Chairman

Sen. W. Paul White, Vice-Chairman
Sen. Linda J. Melconian
Sen. Robert A. Havern
Sen. Mark C. W. Montigney
Senator Jane M. Swift
Senator Robert C. Buell

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September 1993

The Commonwealth of Massachusetts

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September 20, 1993

Edward B. O'Neill
Clerk of the Senate
State House, Room 208
Boston, MA 02133

Dear Mr. O'Neill:

Pursuant to M.G.L. Chapter 3, Section 63 as most recently amended by Chapter 557 of the Acts of 1986, the Senate Committee on Post Audit and Oversight respectfully submits to the full Senate the following report: **Toward Expanded Gaming: A Review of Gaming in Massachusetts**.

This report is based on research by the Senate Post Audit and Oversight Bureau. It explores the present and future state of gaming in Massachusetts through an examination of pari-mutuel racing, electronic and casino gaming.

Respectfully filed by the Senate Committee on Post Audit and Oversight:

Senator Thomas C. Norton
Chairman

Senator W. Paul White
Vice-Chairman

Senator Linda J. Melconian

Senator Robert A. Havern

Senator Mark C. W. Montigny

Senator Robert C. Buell

Senator Jane M. Swift

EXECUTIVE SUMMARY

The Senate Committee on Post Audit and Oversight conducted a series of public hearings from May 19 through June 10, 1993 to examine the social and economic impacts of gaming. The Committee explored:

- the role of the state in the gaming industry;
- the role of gaming revenue in the state's revenue mix;
- the ramifications of the expansion of gaming;
- the regulatory and security issues applicable to gaming; and
- the societal costs of gaming.

The Committee recommended:

- that the mission and authority of the state Racing Commission be expanded, and that it become the state Racing and Gaming Commission, charged with developing a statewide gaming policy. (This report, **Toward Expanded Gaming**, is the first of two that the Committee will issue on the subject of gaming. **Toward Gaming Regulation**, which will examine the societal costs of gaming, review the Commonwealth's present gaming regulatory structure, and define the need for a professional state Gaming Commission, will be released in the coming weeks.)

- that the pari-mutuel industry strengthen its product, and make it more attractive to both the in-state and out-of-state patron, by increasing purse monies so that a better class of horses can be fielded.

- that the Commonwealth implement limited off-track betting in privately owned and operated facilities in Barnstable County (one facility); Essex County (one facility); Berkshire County (two facilities); Worcester County (two facilities); Bristol County (one facility); and Middlesex County (one facility).

The state's percentage of the OTB "take-out" should not exceed its percentage of live racing. OTB facilities should be required to handle Massachusetts events, and should be allowed to offer any wagering options that are extended to Massachusetts pari-mutuel race tracks (i.e. electronic gaming, and the Massachusetts State Lottery).

To prevent the state's pari-mutuel facilities from becoming video gaming centers that "also offer racing" the percentage of net profit that each facility receives from electronic gaming should not exceed the percentage of net profit that they receive from live racing.

- that Keno be implemented gradually, and not offered at on-line lottery locations. In recent years Massachusetts lotto-style game sales have been declining. Megabucks sales are down 44 percent from 1990, while Mass Millions sales are down by 12.8 percent. In direct competition, Keno could destroy the lotto-style games.

- that video wagering be initially placed into pari-mutuel facilities, then into "on-premise" pouring establishments. Implementation into the latter sites should not occur, however, until the state calculates a maximum "machine per capita" ratio for each municipality, establishing the maximum number of machines that could be situated within a community, thereby preventing the industry from flooding, or targeting less affluent cities and towns with video wagering machines, as is reportedly the practice of the Massachusetts State Lottery.

•that the Commonwealth sanction the legalization of four casino gaming licenses, including one land-based casino gaming facility, and three water-based facilities. These sites should be located in Western Massachusetts, Southeastern Massachusetts, Northeastern Massachusetts, and in the city of Boston.

The carefully positioned outlying sites would attract out-of-state patrons, thereby importing revenue, and dampen the exported revenue that is currently flowing to the Indian casino at Ledyard, Connecticut.

Each license should be awarded through a competitive bidding process that involves the state gaming commission, the local community, and the state legislature. Bid requirements should provide that the successful bidder develop specific capital improvements to the host community (which are unrelated to the gaming site, per se).

The first gaming license be for a water-based facility that operates as a riverboat facility (away from the dock) from May through September, and a dockside facility from October through April, and during inclement weather. Second, and successive licenses should be brought on line pending market analyses.

•The Committee estimates that the expansion of gaming in the Commonwealth would generate over $220 million in gaming revenue taxes, including:

- $1.8 million from eight Off-Track Betting facilities;
- $4.8 million from 100 Keno locations;
- $21 million to $25 million from three water-based casino gaming facilities;
- $52.6 million to $70 million from 6,000 video wagering machines;
- $100 million to $120 million from one land-based casino facility.

The Commonwealth of Massachusetts

SENATE COMMITTEE ON POST AUDIT AND OVERSIGHT

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FORWARD

I am happy to present the attached report on the subject of gaming and its potential for expansion within the Commonwealth. It focuses primarily on the economics of this industry and its significance to the revenue base of the Commonwealth. It is my hope that this document will be a useful framework of reference for my colleagues in the legislature, the press, and the public. I hope its circulation will evoke interest and provide insights about matters that far too often are not available to rank and file legislators or their constituents. The existence of this document and its forthcoming companion piece (on the social and regulatory control of gaming) will ensure that the anticipated debate on gaming will be based on widely available facts, not just anecdotal argumentation.

Last spring I asked the staff of the Senate Post Audit and Oversight Bureau to begin a careful review of the complex and often emotionally charged subject of gambling. Some of my friends thought a truthful and frank examination of this subject would be either a noteworthy entry in my legislative legacy or the lead paragraph in my political obituary, and urged that we follow a cautious, politically correct course.

I disagreed with that advice and choose to meet this issue head-on. My years of experience as a regulator of the gaming industry led me to believe that a thorough review was not only justified, but required.

Bills authorizing all forms of new gaming venues have been filed, including that "800 pound gorilla" - casino gaming. To date, the proponents of these bills have uniformly failed to systematically define just how the expansion of gaming would affect the public fabric of he Commonwealth, or even to realistically document how much revenue each expansion would generate.

Furthermore, no attempt has been made to measure the impact that these venues will have on the Massachusetts State Lottery, the largest, (albeit state-operated) gambling concern in the region. The issue of how these venues will affect the state's local aid structure, or charitable gaming revenues has largely been ignored.

Had these issues been examined, much of the hypocrisy surrounding gaming could have been shed. The magnitude of the current, state-authorized gaming industry would have become clear, as would the beneficiaries of the industry, including church organizations, and local tax

payers.

That clarity would enable others to recognize, as I have for a number of years, the need for a coordinated approach to gaming. *It is mind boggling that we have created a multi-billion industry, and are currently contemplating an expansion of that industry, without a game plan.*

I have felt for a number of years that the Commonwealth could safely expand gaming and, in doing so, create substantial additional revenue, and thousands of additional jobs in areas with high unemployment. The Massachusetts economy needs fuel to make its engine run smoothly. I believe that a properly regulated, tightly policed expansion of gaming could be that fuel.

The buzz phrase of the moment is economic development. We are in the unique position to be able to legislatively "create" an industry in Massachusetts. The gaming industry will create thousands of decent jobs, generate hundreds of millions of new revenue, and act as an engine of future economic development and growth. All this can be accomplished with private funds. The Commonwealth will have to provide only two things: 1) approval and 2) oversight.

Knowing this, I am one legislator who will not listen to talk about tax increases until this important non-tax revenue issue is fully, and openly debated, and voted on.

With this report, the development of a rational plan to expand gaming in Massachusetts has begun. It is my hope that, by bringing it into the light of day, the issue of gaming will no longer be the province of the informed and well-placed minority.

I would like to thank the members of the Committee, the staff of the Bureau, and all those who contributed to the preparation and completion of this report.

Thomas C. Norton, Chairman

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INTRODUCTION

The Senate Committee on Post Audit and Oversight conducted a series of public hearings from May 19 through June 10, 1993 to examine the social and economic impacts of gaming. The Committee solicited and received written and oral testimony from many segments of the gaming industry, including casino gaming, electronic gaming, the pari-mutuel industry, and the Massachusetts State Lottery. Testimony was also submitted on the social ramifications of gaming.

The Committee explored several concurrent issues during its review, including:

- the role of the state in the gaming industry;
- the role of gaming revenue in the state's revenue mix;
- the ramifications of the expansion of gaming;
- the regulatory, social, and security issues applicable to gaming.

Testimony was submitted by the following industry principals:

on CASINO GAMING

Michael D. Cox, National Indian Gaming Commission
Clyde T. Turner, Circus Circus Enterprises, Inc.
Richard Bronson, New City Development/Mirage Hotel
Mark Grossman, Las Vegas Hilton
Sheldon G. Adelson, The Interface Group/Sands Hotel
John Giovenco, ITT Sheraton Corporation
Andrew Tottenham, International Gaming Consultant

on ELECTRONIC WAGERING

Robert Babcock, Video Lottery Technologies
John Kerner, Massachusetts Gaming Association
Paul Palmer, International Technical Systems of New England
Guy Snowden, G-Tech
Richard Currie, Williams Gaming
William G. Rickett, Dynamo Corporation
William J. Tregor, Jr., Betstar, Ltd.

on PARI-MUTUEL RACING

Ken Kirchner, Pennsylvania Racing Commission
Mark Laino, Illinois Racing Board
Robert Hutchinson, Jr., Massachusetts Racing Commission
John Daily, New York Racing and Wagering Board
Robert O'Malley, New Suffolk Downs Corporation
Paul Sarkis, Foxboro Park and Wonderland Greyhound Park
George Carney, Raynham-Taunton Dog Track
Joseph Carney, Rockingham Park
Martin Maline, National Horsemen's Benevolent and Protective Association
Louise Coleman, Greyhound Friends, Inc.
Charles Bishop, Massachusetts Standardbred Breeders and Owners, Inc.
Bernard Flynn, Massachusetts Thoroughbred Breeders Association
John Sorrentino, Massachusetts Greyhound Association, Inc.

on THE MASSACHUSETTS STATE LOTTERY

Eric Turner, Massachusetts State Lottery

on THE SOCIAL IMPACTS OF GAMING

James Moody, Federal Bureau of Investigation
Sgt. Thomas Foley, Massachusetts State Police
Thomas Cummings, Massachusetts Council on Compulsive Gambling
Alan Meisler, The Compulsive Gambling Therapy Center

This report, **Toward Expanded Gaming**, is the first of two that the Senate Committee on Post Audit and Oversight will issue on the subject of gaming. A second report, **Toward Gaming Regulation**, will be released in the coming weeks, and will examine the societal costs of gaming, review the Commonwealth's present gaming regulatory structure, and propose the creation of a state Gaming Commission. **Toward Expanded Gaming** explores the present and future state of gaming in Massachusetts through an examination of pari-mutuel racing, electronic gaming, and casino gaming. It concludes with a recommended strategy for expanding and maximizing the state's gaming portfolio, and with an estimate of that expansion's projected revenue.[1]

[1]This report does not review the Massachusetts State Lottery, per se. The Senate Committee on Post Audit and Oversight previously reviewed the Lottery in A Report of the Senate Committee on Post Audit and Oversight relative to "Lottery Revenue Growth: Prospects for the Future", Senate document No. 1720, October, 1991.

STATEMENT OF CHAIRMAN THOMAS C. NORTON

The following was read by Sen. Thomas C. Norton at the beginning of each day's testimony during the Senate Committee on Post Audit and Oversight's public hearings:

"Good morning. This hearing of the Senate Committee on Post Audit and Oversight is called to order.

"The Senate Committee on Post Audit and Oversight has scheduled a series of public hearings to examine the social and economic impacts of gaming within the Commonwealth. The Committee is seeking to establish:

1) the state's role in gaming;
2) the role of gaming revenue in the state's revenue mix;
3) the ramifications of the expansion of gaming in Massachusetts;
4) the regulatory and security issues applicable to gaming; and
5) the societal costs of gaming.

"These oversight hearings have been authorized by the Committee as defined by chapter three, section sixty-three and sixty-four of Massachusetts General Law. The Committee has not requested, nor shall it accept, testimony on any specific bill currently pending before the legislature.

"The Committee solicited a wide range of witnesses from within all sectors of the gaming industry, including operators and regulators. Inclusion or exclusion of any party should not be inferred as a Committee recommendation or condemnation.

"Unsolicited public comment shall be allowed on the afternoon of June 10, the final day of the scheduled gaming hearings."

PART ONE: GAMING REVENUE

Legalized gaming is big business. In 1991, more than $157 billion was legally wagered in the Unites States: $111.1 billion on casino gaming, and $45.9 billion on state lotteries, parimutuel and charitable gaming.[2]

The highest gross gaming revenue figures were recorded in Nevada and New Jersey (**see Chart One: Total Gaming Growth: 1990-91**). In fact, more money was wagered in Nevada than in all of the other forty-nine states combined. Nevada and New Jersey owe their gaming strength to casino wagering. Less than one percent of Nevada's gaming revenue is derived from non-casino sources, such as pari-mutuel wagering, as is less than nine percent of New Jersey's gaming revenue.

Many states are now following the lead of Nevada and New Jersey (and the many successful Indian tribes across the nation) and contemplating the implementation of casino gaming. Casino gaming is to the 1990's what state lotteries were to the 1970's: potential, if not painless sources of new non-tax revenue. After implementing land, or water-based casino gaming, Colorado, Illinois, and Iowa combined to generate more than $1.9 billion in 1991.

These states demonstrate the impact of casino gaming on gaming revenue. In 1990 Colorado and Iowa generated modest overall gaming revenues as compared to other states; Colorado gross gaming revenue ranked twentieth in the nation, while Iowa ranked twenty-fifth. After implementing casino gaming, however, Colorado's gaming revenue in 1991 increased by 208 percent gaming while Iowa's gaming revenue increased by eighty-eight percent.

Gaming revenue increased in thirty-one states in 1991, and decreased in fifteen states. Colorado, Texas, and Iowa realized the largest increases while California, Indiana, and Alabama realized the largest decreases.

Gaming revenues were impacted by declining lottery sales and a nation-wide pari-mutuel slump. Indiana, which does not offer a state lottery, saw its pari-mutuel revenue decline by thirteen percent. The decline in California pari-mutuel sales (-1.4 percent) was compounded

---

[2]State lotteries,$21.5 billion; horse racing, $13.9 billion; charitable gaming, $5.8 billion; greyhound racing, $3.5 billion; video wagering, $.7 billion; jai a'lai, $.5 billion. LaFleur, Terri. 1993 World Gambling Abstract, TLF Publications, Boyds, MD, p. iv.

CHART ONE
TOTAL GAMING GROWTH: 1990–91

('in millions)

	'90–HANDLE	'91–HANDLE	CHANGE
Alabama	$373.5	$336.2	–9.99%
Alaska	$188.9	$204.1	8.05%
Arizona	$474.6	$519.6	9.48%
Arkansas	$340.4	$328.0	–3.64%
California	$5,127.9	$4,272.5	–16.68%
Colorado	$589.4	$1,821.2	208.99%
Connecticut	$1,058.6	$1,026.8	–3.00%
Delaware	$148.8	$162.3	9.07%
Florida	$3,801.8	$3,905.5	2.73%
Georgia	$32.6	$34.9	7.06%
Hawaii	$0.0	$0.0	
Idaho	$80.4	$79.3	–1.37%
Illinois	$2,993.3	$3,673.8	22.73%
Indiana	$446.5	$390.3	–12.59%
Iowa	$389.9	$734.9	88.48%
Kansas	$370.9	$344.4	–7.14%
Kentucky	$711.6	$909.8	27.85%
Louisiana	$909.8	$1,332.5	46.46%
Maine	$133.7	$149.3	11.67%
Maryland	$1,382.4	$1,334.7	–3.45%
Massachusetts	$2,265.8	$2,359.0	4.11%
Michigan	$1,914.1	$1,839.2	–3.91%
Minnesota	$1,695.8	$1,610.8	–5.01%
Mississippi			
Missouri	$364.9	$389.3	6.69%
Montana	$303.9	$357.4	17.60%
Nebraska	$292.1	$318.5	9.04%
Nevada	$78,246.8	$83,849.0	7.16%
New Hampshire	$478.3	$482.6	0.90%
New Jersey	$26,522.7	$27,772.2	4.71%
New Mexico	$222.8	$223.3	0.22%
New York	$5,669.9	$5,441.2	–4.03%
North Carolina	$35.2	$38.4	9.09%
North Dakota	$209.4	$222.4	6.21%
Ohio	$2,354.8	$2,477.8	5.22%
Oklahoma	$240.2	$217.5	–9.45%
Oregon	$321.7	$449.1	39.60%
Pennsylvania	$1,972.0	$1,954.5	–0.89%
Rhode Island	$239.8	$246.3	2.71%
South Carolina			
South Dakota	$682.4	$833.5	22.14%
Tennessee			
Texas	$669.3	$1,511.8	125.88%
Utah			
Vermont	$53.9	$59.6	10.58%
Virginia	$790.3	$846.5	7.11%
Washington	$1,083.1	$1,179.5	8.90%
Washington D.C.	$155.0	$152.2	–1.81%
West Virginia	$386.7	$366.9	–5.12%
Wisconsin	$634.0	$812.9	28.22%
Wyoming	$11.3	$11.8	4.42%
AVG–I	$3,135.6	$3,352.8	6.93%
AVG–II	$946.7	$1,021.4	1.16%

AVG–I includes all states;

AVG–II excludes Nevada and New Jersey.

by declining lottery sales (-36.5 percent). Declining greyhound pari-mutuel revenue (six percent) was compounded by declining running horse racing revenue (thirty-seven percent).

Most states, however, realized increases in gaming revenue. Thirty-one states realized an increase in gaming revenue from 1990 through 1991. The mean annual increase was twenty-four percent, while the median increase (half of the states above and half below) was 9.04 percent. Gaming increases were generally driven by market and venue expansion. The Texas increase (+126 percent) was largely the result of the newly developed Texas State Lottery, while the states of Colorado and Iowa realized increases as the result of casino gaming.

The Commonwealth's gaming stream is highly dependent upon the state lottery (**see Chart Two: 1991 Inter-State Gaming Comparison**). While over $2.5 billion was legally wagered within the Commonwealth in 1992 the overwhelming bulk was wagered on the Lottery:

State Lottery: $1,771,899,299
Pari-Mutuel Racing: $495,407,266
Charitable Gaming: $267,840,951

Massachusetts residents spent approximately 1.7 percent of their personal income on gaming expenditures, well above the national average (of 1.23 percent). The state's rate of growth in gaming expenditures, however, is far below the national average. Massachusetts gaming revenue increased by 4.1 percent in 1991, lower than that realized by twenty-five other states, and better than only four other states that registered increased gaming revenue.

This reiterates a trend that was identified by the Committee in 1991, that per capita lottery spending, the state Lottery's undisputed strength, has begun to level.[3] It remains to be seen how far the state can push such individual spending. Simple economics suggests that the state should minimize this figure because long-term growth is difficult to sustain in any market that over-relies on a limited consumer network. The Committee believes that, if gaming is expanded in Massachusetts, the gaming client base should be expanded. Policy should be aimed at attracting people to Massachusetts to gamble, rather than inducing Massachusetts people to gamble more.

---

[3] "The dependence of the MSL on per capita revenue spending, however, places the Commonwealth in the precarious position of being a statistical outlier. The data indicate that MSL revenue growth has slowed dramatically since 1984. A further erosion in lottery growth could force the Commonwealth to absorb a precipitous revenue decline." Senate No. 1720, October, 1991, page 38.

CHART TWO
1991 INTER-STATE GAMING COMPARISION
(in millions)

	Lottery1	%	Racing2	%	Other3	%	Charit. Gaming	%	Total
Alabama			$336.2	100%					$336.2
Alaska							$204.1	100%	$204.1
Arizona	$251.7	48%	$219.8	42%			$48.1	9%	$519.6
Arkansas			$328.0	100%					$328.0
California	$1,355.0	31%	$2,922.8	68%	$35.6	1%			$4,313.4
Colorado	$239.2	13%	$189.3	10%	$1,171.3	64%	$221.4	12%	$1,821.2
Connecticut	$543.8	53%	$238.7	23%	$186.3	18%	$58.0	6%	$1,026.8
Delaware	$78.4	48%	$83.9	52%					$162.3
Florida	$2,171.4	56%	$1,493.8	38%	$240.3	6%			$3,905.5
Georgia							$34.9	100%	$34.9
Hawaii									$0.0
Idaho	$51.9	65%	$27.4	35%					$79.3
Illinois	$1,576.7	43%	$1,248.2	34%	$609.2	17%	$239.7	7%	$3,673.8
Indiana							$390.3	100%	$390.3
Iowa	$168.5	23%	$155.5	21%	$353.1	48%	$57.8	8%	$734.9
Kansas	$77.0	22%	$247.0	72%			$20.4	6%	$344.4
Kentucky	$427.5	47%	$482.3	53%					$909.8
Louisiana	$380.2	29%	$605.4	45%			$346.9	26%	$1,332.5
Maine	$114.0	76%	$35.3	24%					$149.3
Maryland	$812.3	61%	$522.4	39%					$1,334.7
Massachusetts	$1,727.5	73%	$388.1	16%			$243.4	10%	$2,359.0
Michigan	$1,139.0	62%	$421.4	23%			$278.8	15%	$1,839.2
Minnesota	$297.6	18%	$87.0	5%			$1,226.2	76%	$1,610.8
Mississippi									$0.0
Missouri	$220.3	57%					$169.0	43%	$389.3
Montana4	$27.9	8%	$6.2	2%	$323.3	90%			$357.4
Nebraska			$114.8	36%			$203.7	64%	$318.5

CHART TWO cont.

Nevada4			$0.4	0%	$78,246.4	100%			$78,246.8
New Hampshire	$111.2	23%	$289.7	60%			$81.7	17%	$482.6
New Jersey	$1,360.3	5%	$1,051.0	4%	$25,360.9	91%			$27,772.2
New Mexico			$152.3	68%			$71.0	32%	$223.3
New York5	$2,063.1	38%	$3,168.8	58%			$209.3	4%	$5,441.2
North Carolina							$38.4	100%	$38.4
North Dakota			$4.5	2%			$217.9	98%	$222.4
Ohio	$1,685.4	68%	$428.8	17%			$363.6	15%	$2,477.8
Oklahoma		0%	$217.5	100%					$217.5
Oregon	$245.0	55%	$96.2	21%	$45.6	10%	$62.3	14%	$449.1
Pennsylvania	$1,408.9	72%	$545.6	28%					$1,954.5
Rhode Island	$66.3	27%	$157.9	64%	$22.1	9%			$246.3
South Carolina									$0.0
South Dakota	$22.8	3%	$9.9	1%	$800.8	96%			$833.5
Tennessee									$0.0
Texas	$580.0	38%	$263.7	17%			$668.1	44%	$1,511.8
Utah									$0.0
Vermont	$51.2	86%	$8.4	14%					$59.6
Virginia	$846.5	100%							$846.5
Washington	$302.1	26%	$239.6	20%	$14.2	1%	$623.6	53%	$1,179.5
Wash. D.C.	$145.4	96%					$6.8	4%	$152.2
West Virginia	$90.4	25%	$265.5	72%	$11.0	3%			$366.9
Wisconsin	$445.8	55%	$345.4	42%			$21.7	3%	$812.9
Wyoming			$11.8	100%					$11.8
TOTAL	$21,084.3	14%	$17,410.5	11%	$107,420.1	71%	$6,107.1	4%	$152,022.0

1:FY91-92

2:includes horse, dog, OTB, and inter-track revenue

3:CA-card rooms; CO-casino; CT-jai alai; FL-jai alai; IL-casino riverboat, riverboat & OTB; IA-casino; MT-video gaming; NV-casino; NJ-casino; OR-video gaming; RI-jai alai; SD-casino & video gaming; WA-card rooms; WV-video gaming;

4:1990 racing revenue

5:1990 charitable gaming revenue

(Sen. Post Audit and Oversight)

Diversification and Growth

Legal gaming of one type or another was permitted in forty-five states and the District of Columbia in 1991. Seven states restricted legalized gaming to only one venue, (i.e. a state lottery, pari-mutuel wagering, or charitable gaming)[4] while the other states experimented with different venue combinations.

The data indicate that most states offering lottery and pari-mutuel wagering derive the bulk of their gaming revenue from lottery sales. Only two, Kentucky and Delaware, received more than fifty percent of their gaming revenue from pari-mutuel racing.

Legal gambling in Massachusetts in 1991 was confined to the state lottery, pari-mutuel racing, and charitable gaming. Massachusetts was one of seventeen states to offer three gaming venues (lottery, pari-mutuel wagering, and either charitable or electronic gaming). Six states offered four venues.

Sixty-four percent of the Commonwealth's gaming revenue in 1991 was derived from the state Lottery (**see Chart Two**). Pari-mutuel racing generated less than seventeen percent of the state's gaming revenue. Ten other state's offered this dual venue combination and, on average, generated thirty-six percent of their gaming revenue from pari-mutuel racing.

The benefit of offering multiple venues can be demonstrated by comparing the average *growth rate* of state gaming revenue from 1990 to 1991. The Committee found that single venue states *averaged* .007 percent revenue growth; double venue states averaged 6.23 percent revenue growth; triple venue states (such as Massachusetts) averaged 12.72 percent growth; while quadruple venue states averaged 60.95 percent revenue growth.

These data indicate a positive relationship between revenue growth and venue diversification. However, a closer examination indicates that revenue generation cannot be sustained through the simple expansion of the venue base. States must also balance their reliance on each specific segment of the gaming market.

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[4] Virginia: a state lottery; Oklahoma and Wyoming: pari-mutuel wagering; Georgia, North Carolina, Indiana, and Alaska: charitable gaming.

For example, the Committee found that states which relied on a single category of gaming for gaming revenue (lottery sales, pari-mutuel wagering, or charitable gaming) realized less productive growth than states utilizing a more balanced venue mix.

States receiving more than sixty percent of gaming revenue from one category and less than twenty-five percent from a second category (Massachusetts, Minnesota, Michigan, Kansas, and Ohio) *averaged* negative revenue growth (-12.0 percent) from 1990 to 1991[5] while states receiving less than sixty percent of gaming revenue from one category and more than twenty-five percent from one other category (Texas, Wisconsin, Arizona, and Louisiana) *averaged* positive growth (52.5 percent) during the same period.

This indicates that overall revenue production is dependent on both diversity of venue and a balanced reliance on each venue. States can lessen their exposure to shifts in market forces by spreading their risk among various products, thereby diminishing their reliance on any one venue.

[5]Lottery sales exceeded 60 percent of total gaming receipts in Ohio, Michigan, and Massachusetts; pari-mutuel wagering exceeded 60 percent of gaming receipts in New York and New Hampshire; charitable gaming exceeded 70 percent of gaming receipts in Minnesota.

PART TWO: PARI-MUTUEL WAGERING

More than $17 billion was wagered on pari-mutuel racing in thirty-nine states in 1991, mostly ($13.8 billion) on horse racing. Greyhound dog racing accounted for less than twenty percent of the nation's pari-mutuel racing revenue. As such, states which focused on horse racing generated more revenue, on average, than their greyhound racing counterparts. For example, in 1991:

-twenty-one states only offered horse racing, and *averaged* $588 million in gross racing revenue;

-fifteen states offered horse and greyhound dog racing, and averaged $289.4 million in gross racing revenue;

-three states only offered dog racing, and averaged $247.3 million in gross racing revenue;

-ten of the eleven top pari-mutuel revenue producing states only offered wagering on horse racing (**see Chart Three: Inter-State Racing Handle Comparison**).

Greyhound racing revenue was, however, more consistent from 1990 through 1991. While the total horse racing handle declined during this period by 1.9 percent, the total greyhound racing handle increased by 1.5 percent.

Extra-Track Wagering

In an effort to expand its market share, the pari-mutuel industry has experimented with bringing more racing to the racing patron through simulcasting, inter-track wagering, and off-track betting. Simulcasting allows patrons at one track to place wagers on races that are being run at another facility. Off-track betting simply "simulcasts" racing events to a non-track facility.

Six states (fifteen percent of the thirty-nine pari-mutuel states) offered one or more "extra-track" wagering options in 1991. However, extra-track wagering accounted for more than seventeen percent of the national pari-mutuel handle in that year.

Conventional wisdom often credits extra-track wagering with "saving" the pari-mutuel industry. The experiences of New York and Illinois, however, indicate that the success of extra-track wagering often comes at the expense of the on-track handle.

CHART THREE
INTER-STATE RACING HANDLE COMPARISON

1991 (in millions)

	Gry'hnd Racing	%	Horse Racing	%	Total	OTB/Inter-Track/Simul
New York			$3,168.8	100.0%	$3,168.8	$1,819.9
California			$2,922.8	100.0%	$2,922.8	
Florida	$896.3	60.0%	$597.5	40.0%	$1,493.8	
Illinois			$1,248.2	100.0%	$1,248.2	$682.6
New Jersey			$1,051.0	100.0%	$1,051.0	
Louisiana			$605.4	100.0%	$605.4	$289.2
Pennsylvania			$545.6	100.0%	$545.6	
Maryland			$522.4	100.0%	$522.4	
Kentucky			$482.3	100.0%	$482.3	
Ohio			$428.8	100.0%	$428.8	
Michigan			$421.4	100.0%	$421.4	
Massachusetts	$373.7	96.3%	$14.4	3.7%	$388.1	
Wisconsin	$345.4	100.0%			$345.4	
Alabama	$305.8	91.0%	$30.4	9.0%	$336.2	
Arkansas	$199.4	60.8%	$128.6	39.2%	$328.0	
New Hampshire	$82.9	28.6%	$206.8	71.4%	$289.7	
West Virginia	$135.0	50.8%	$130.5	49.2%	$265.5	
Texas	$128.8	48.8%	$134.9	51.2%	$263.7	
Kansas	$212.5	86.0%	$34.5	14.0%	$247.0	
Washington			$239.6	100.0%	$239.6	$87.7
Connecticut	$238.7	100.0%			$238.7	$165.7
Arizona	$135.7	61.7%	$84.1	38.3%	$219.8	
Oklahoma			$217.5	100.0%	$217.5	
Colorado	$188.8	99.7%	$0.5	0.3%	$189.3	
Iowa 1	$152.8	85.5%	$25.9	14.5%	$178.7	
Rhode Island	$157.9	100.0%			$157.9	$21.6
New Mexico			$152.3	100.0%	$152.3	
Nebraska			$114.8	100.0%	$114.8	
Oregon	$61.2	63.6%	$35.0	36.4%	$96.2	
Minnesota			$87.0	100.0%	$87.0	
Delaware			$83.9	100.0%	$83.9	
Maine			$35.3	100.0%	$35.3	
Idaho	$19.3	70.4%	$8.1	29.6%	$27.4	
Wyoming			$11.8	100.0%	$11.8	
South Dakota	$8.3	83.8%	$1.6	16.2%	$9.9	
Vermont	$7.4	88.1%	$1.0	11.9%	$8.4	
Montana 1			$6.2	100.0%	$6.2	
North Dakota			$4.5	100.0%	$4.5	
Nevada 1			$0.4	100.0%	$0.4	
TOTAL	$3,649.9	20.9%	$13,783.8	79.1%	$17,433.7	$3,066.7

1: 1990 revenue

(LaFleur's World Gambling Abstract, 1993)

The data indicate that New York state off-track revenue increased from 1971 through the early 1990's. During this period, however, OTB revenue increased as a percentage of the state's total racing handle. In other words, the off-track handle increased at the expense of the on-track handle. For example,

1971
total NY pari-mutuel
revenue: $1,745,108,455
OTB revenue: $118,588,586
% of handle: 6.8

1975
total NY pari-mutuel
handle: $2,547,769,635
OTB revenue: $906,858,911
% of handle: 35.6

1980
total NY pari-mutuel
handle: $3,106,459,059
OTB revenue: $1,462,622,784
% of handle: 47.1

1992
total NY pari-mutuel
handle: $3,086,286,024
OTB revenue: $1,762,326,340
% of handle: 57.1

The state of Illinois experienced a similar revenue shift (**see Chart Four: Impact of OTB on the On-Track Handle**).

The Committee found that extra-track wagering has not uncovered a new source of gaming revenue. It has, however, helped slow the decline in pari-mutuel wagering. Since 1972, for example, the overall pari-mutuel handle for the state of New York has declined during eight individual years. The on-track handle declined for twelve of these years, while the off-track declined during four of these years. Without OTB the total New York state handle would have been substantially lower.

Similar revenue trends were found in Illinois. The state's total handle declined three times from 1985 through 1992; the on-track handle declined six times, while the extra-track handle declined only once.

CHART FOUR
IMPACT OF OTB ON THE ON-TRACK HANDLE

:NEW YORK *(in '000s)*

	On-Track	% of Handle	Off-Track	% of Handle
1970	$1,623,152	1.00	$0	0.00
1971	$1,626,519	0.93	$118,588	0.07
1972	$1,521,925	0.77	$452,633	0.23
1973	$1,654,110	0.70	$702,694	0.30
1974	$1,678,465	0.67	$815,250	0.33
1975	$1,640,911	0.64	$906,858	0.36
1976	$1,645,713	0.61	$1,052,902	0.39
1977	$1,448,482	0.56	$1,128,052	0.44
1978	$1,560,497	0.56	$1,206,530	0.44
1979	$1,590,246	0.54	$1,372,026	0.46
1980	$1,643,836	0.53	$1,462,622	0.47
1981	$1,584,271	0.51	$1,505,363	0.49
1982	$1,617,470	0.52	$1,521,285	0.48
1983	$1,584,173	0.51	$1,531,992	0.49
1984	$1,571,698	0.50	$1,583,493	0.50
1985	$1,596,187	0.50	$1,574,729	0.50
1986	$1,600,209	0.48	$1,756,754	0.52
1987	$1,580,991	0.45	$1,909,164	0.55
1988	$1,517,726	0.44	$1,950,837	0.56
1989	$1,438,758	0.43	$1,920,301	0.57
1990	$1,402,293	0.42	$1,923,707	0.58
1991	$1,349,624	0.43	$1,819,909	0.57
1992	$1,323,959	0.43	$1,762,326	0.57

:ILLINOIS *(in '000s)*

	On-track	% of Handle	Inter/OTB	% of Handle
1983	$964,058	1.00	$0	0.00
1984	$833,352	0.82	$184,813	0.18
1985	$763,945	0.83	$159,289	0.17
1986	$646,643	0.77	$191,703	0.23
1987	$674,387	0.70	$290,249	0.30
1988	$590,147	0.59	$415,483	0.41
1989	$620,631	0.52	$572,570	0.48
1990	$615,114	0.49	$637,253	0.51
1991	$565,560	0.45	$682,600	0.55
1992	$504,557	0.39	$786,361	0.61

source: New York and Illinois state racing commissions

Some industry principals postulated that the erosion in the on-track handle was partially the result of extra-track wagering. This is not borne out in fact, however, as states that did not allow off-track betting realized similar on-track handle declines during the period studied.

MASSACHUSETTS PARI-MUTUEL RACING

The pari-mutuel racing industry has been dependent upon horse racing for its survival. Over $17 billion were legally wagered on pari-mutuel racing events in the United States in 1991. Eighty percent of the monies wagered were placed on horse racing events. Sixty-six percent of *these* monies were wagered in ten states that only offered horse racing (**see Chart Three**).

The Massachusetts pari-mutuel industry has been dependent upon greyhound dog racing for its survival. Massachusetts is one of fifteen states that offers legalized gaming on horse and dog racing events. These states derive the bulk of their pari-mutuel racing revenue from greyhound dog racing. For example:

	Percentage of Pari-mutuel Revenue Wagered on Dog Racing Events, 1991
Colorado	99%
Massachusetts	96%
Alabama	91%
Vermont	88%
Kansas	86%
Iowa	85%
S. Dakota	84%
Idaho	70%
Oregon	64%
Arizona	62%
Arkansas	61%
Florida	60%
W. Virginia	51%

The combined Massachusetts horse and dog pari-mutuel handle was approximately $388.1 million in 1991. Over ninety-five percent of this handle ($373 million) was wagered on greyhound dog racing events.

While examining trends in the pari-mutuel industry, the Committee established an apparent correlation between state pari-mutuel racing revenue and gross lottery receipts. Six of the states which produced the highest pari-mutuel revenue figures were among the top ten lottery revenue states.

The Commonwealth, however, demonstrated a weak correlation between pari-mutuel wagering and lottery sales. Massachusetts ranked first in the nation in per capita lottery sales, and third in gross lottery receipts, yet seventh (out of eighteen) in per capita greyhound wagering receipts, eleventh in greyhound wagering as a percentage of personal income, twenty-eighth in gross horse racing receipts, and thirty-second in horse wagering receipts as a percentage of personal income.[6]

Conversely, New Hampshire and Rhode Island generated low lottery sales while recording high pari-mutuel receipts. New Hampshire ranked sixteenth in 1991 per capita lottery sales, yet produced the highest per capita horse racing revenue in the country; Rhode Island ranked twenty-sixth in per capita lottery sales, yet generated the highest per capita greyhound racing revenue in the country.

The New Hampshire and Rhode Island statistics are undoubtedly driven by low in-state population figures and high numbers of cross-over patrons from Eastern Massachusetts. The data also indicate that the citizens of the Commonwealth apparently have no aversion toward gambling, yet have failed to fully embrace pari-mutuel wagering. This may reflect the geographic distribution of each venue's sale locations. There are over 6,000 lottery agents across the state, yet only four pari-mutuel facilities - all located within the "Route 495 belt." If so, a coordinated marketing plan between the state Lottery and the pari-mutuel industry may boost awareness, and interest of racing. The data may, however, indicate that New Hampshire and Rhode Island are producing a pari-mutuel product that is more attractive to residents of New England than that of the Commonwealth, including residents of Massachusetts.

Pari-Mutuel Racing Revenue Growth

Pari-mutuel racing within the Commonwealth during the 1980's was, on average, a $500 million a year business (**see Chart Five: Annual and Per Capita Racing Handle**). The greyhound racing industry generated approximately $272 million per year, while the thoroughbred and harness horse industries generated approximately $219 million and $58 million, respectively. Gross revenue peaked in 1986 when a combined $620 million was wagered at Suffolk Downs, Foxboro Park, Wonderland Greyhound Park, and Raynham-Taunton Greyhound Track. This represented a thirty percent increase over 1980 revenue totals.

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[6]Effective 1991. 1993 World Gambling Abstract, op cit.

CHART FIVE
ANNUAL AND PER CAPITA RACING HANDLE

	Run.Hrse	Harn.Hrse	Greyhound	Total	Change
1980: handle	$194,445,056	$51,994,278	$234,648,220	$481,087,554	
attendance	1687346	577064	2207090	4471500	
p/c handle	$115	$90	$106		
1981: handle	$224,222,200	$56,583,841	$249,465,616	$530,271,657	10.2%
attendance	1803633	619810	2384192	4807635	0.075172
p/c handle	$124	$91	$105		
1982: handle	$243,445,493	$68,572,606	$247,430,127	$559,448,226	5.5%
attendance	2066225	692215	2376532	5134972	0.068086
p/c handle	$118	$99	$104		
1983: handle	$230,122,056	$63,488,011	$266,535,493	$560,145,560	0.1%
attendance	1819144	611854	2441681	4872679	-0.05107
p/c handle	$127	$104	$109		
1984: handle	$210,901,254	$53,952,997	$275,831,660	$540,685,911	-3.5%
attendance	1482797	513823	2469609	4466229	-0.08341
p/c handle	$142	$105	$112		
1985: handle	$212,897,667	$58,109,523	$294,169,416	$565,176,606	4.5%
attendance	1387553	534509	2441772	4363834	-0.02292
p/c handle	$153	$109	$120		
1986: handle	$223,001,002	$58,232,012	$339,326,818	$620,559,832	9.8%
attendance	1386842	513702	2630092	4530636	0.038223
p/c handle	$161	$113	$129		
1987: handle	$209,590,935	$0	$391,807,946	$601,398,881	-3.1%
attendance	1246004	0	2853269	4099273	-0.09521
p/c handle	$168	$0	$137		
1988: handle	$200,085,191	$0	$424,315,808	$624,400,999	3.8%
attendance	1168413	0	3053693	4222106	0.029964
p/c handle	$171	$0	$139		
1989: handle	$183,645,496	$0	$433,718,356	$617,363,852	-1.1%
attendance	1041794	0	3045589	4087383	-0.03190
p/c handle	$176	$0	$142		
1990: handle	$11,703,669	$0	$410,594,394	$422,298,063	-31.6%
attendance	124000	0	3111090	3235090	-0.20851
p/c handle	$94	$0	$132		
1991: handle	$14,396,099	$0	$373,691,352	$388,087,451	-8.1%
attendance	156000	0	2895509	3051509	-0.05674
p/c handle	$92	$0	$129		
1992: handle	$147,996,114	$28,763,428	$312,970,895	$489,730,437	26.2%
attendance	877719	75269	2537045	3490033	0.143707
p/c handle	$169	$382	$123		

Sen. Post Audit and Oversight

The stratification of the industry can be demonstrated by comparing the revenue growth of the horse and greyhound sectors. From 1980 to 1982 running horse revenue increased by approximately twenty-five percent, while greyhound revenue increased by six percent.[7] From 1983 through 1989, however, the running horse handle decreased by twenty percent, while the greyhound handle increased by sixty-three percent.

From 1983 through 1989 the greyhound industry experienced seven consecutive years of increased growth while the running horse industry experienced six years of declining revenue. In 1983 greyhound wagers composed forty-seven percent of the state's total pari-mutuel handle. *By 1989, greyhound wagers composed seventy percent of the state's total pari-mutuel handle.*

Attendance and Handle Growth

Suffolk Downs, from 1982 through 1986, generated the highest average handle ($212 million) of any track in the Commonwealth (see Chart Six: **Annual and Per Capita Track Handle**). The annual handle at Wonderland Park during this period averaged $143 million, while Raynham-Taunton Greyhound Park generated an average handle of $139 million.

Throughout this period, overall track attendance was gradually decreasing, dropping from 5.1 million in 1982, to 4.5 million in 1986. By 1986, attendance at Suffolk Downs, Foxboro Park, and Wonderland Park had declined, by twenty-four, twenty-three, and seventeen percent, respectively. Only Raynham-Taunton Greyhound Dog Track registered an attendance increase during this period, drawing 1.04 million patrons in 1982 and 1.54 million patrons in 1986.

The Raynham-Taunton Greyhound Park facilities are shared by two licensees: the Massasoit Greyhound Association, Inc., which conducts racing from January 1 through July 2, and the Taunton Dog Track, Inc., which conducts racing from July 3 through December 31. In 1987, the Raynham-Taunton Dog Track surpassed Suffolk Downs as the state's top grossing pari-mutuel facility, a distinction that the greyhound facility has not since surrendered.

From 1986 through 1992 attendance fluctuated at Massachusetts pari-mutuel racing facilities. Greyhound track attendance increased by eighteen percent through 1990, then fell over the next two years by nineteen percent. Attendance at horse racing events dropped from 1986

[7]Thoroughbred horses are often called "running horses", while harness horses are called "trotters".

CHART SIX
ANNUAL AND PER CAPITA TRACK HANDLE

	Suffolk Downs	*Wonder-land*	*Raynham-Taunton*	*Foxboro*	*All Fairs*	*Total*
1982 handle	$226,075,982	$144,907,607	$102,522,520	$65,641,550	$20,300,567	$559,448,226
attendance	1676652	1306911	1047742	660852	420936	5113093
p/c handle	$135	$111	$98	$99	$48	$109
1983 handle	$215,781,412	$148,669,835	$117,865,658	$60,677,123	$17,151,532	$560,145,560
change	-4.55%	2.60%	14.97%	-7.56%	-15.51%	0.12%
attendance	1508994	1247653	1194028	582951	339053	4872679
p/c handle	$143	$119	$99	$104	$51	$115
1984 handle	$202,480,123	$142,162,253	$133,669,407	$52,458,084	$9,916,044	$540,685,911
change	-6.16%	-4.38%	13.41%	-13.55%	-42.19%	-3.47%
attendance	1337597	1160468	1309141	497472	161324	4466002
p/c handle	$151	$123	$102	$105	$61	$121
1985 handle	$204,569,210	$137,670,529	$156,498,887	$58,109,523	$8,328,458	$565,176,607
change	1.03%	-3.16%	17.08%	10.77%	-16.01%	4.53%
attendance	1279553	1057285	1384487	534509	108000	4363834
p/c handle	$160	$130	$113	$109	$77	$130
1986 handle	$214,053,480	$147,520,620	$191,806,198	$58,232,012	$8,947,522	$620,559,832
change	4.64%	7.15%	22.56%	0.21%	7.43%	9.80%
attendance	1278842	1087941	1542151	513702	108000	4530636
p/c handle	$167	$136	$124	$113	$83	$137
1987 handle	$199,948,245	$173,034,433	$218,773,513		$9,642,690	$601,398,881
change	-6.59%	17.30%	14.06%		7.77%	-3.09%
attendance	1136004	1171825	1681444		110000	4099273
p/c handle	$176	$148	$130		$88	$147
1988 handle	$188,663,265	$188,445,880	$235,869,928		$11,421,926	$624,400,999
change	-5.64%	8.91%	7.81%		18.45%	3.82%
attendance	1041413	1253740	1799953		127000	4222106
p/c handle	$181	$150	$131		$90	$148
1989 handle	$171,676,842	$193,738,983	$239,979,373		$11,968,654	$617,363,852
change	-9.00%	2.81%	1.74%		4.79%	-1.13%
attendance	914794	1262653	1782936		127000	4087383
p/c handle	$188	$153	$135		$94	$151
1990 handle		$195,462,773	$215,131,621		$11,703,669	$422,298,063
change		0.89%	-10.35%		-2.21%	-31.60%
attendance		1301214	1809876		124000	3235090
p/c handle		$150	$119		$94	$131
1991 handle		$175,973,446	$197,717,906		$14,396,099	$388,087,451
change		-9.97%	-8.09%		23.01%	-8.10%
attendance		1251989	1643520		156000	3051509
p/c handle		$141	$120		$92	$127
1992 handle	$143,270,367	$138,149,250	$174,821,645	$33,489,175	$4,616,273	$494,346,710
change		-21.49%	-11.58%		-67.93%	27.38%
attendance	768705	1010647	1526398	184283	53000	3543033
p/c handle	$186	$137	$115	$182	$87	$140

through 1992 by 27.5 percent.

(Harness horse racing was temporarily halted in 1987. The immediate beneficiary of this appeared to be the greyhound industry, which averaged a 7.7 percent increase in attendance and an 11.5 percent increase in revenue growth in the following two years. The 1990 termination of thoroughbred racing at Suffolk Downs did not, however, appear to carry similar benefits, as subsequent attendance figures at greyhound racing events grew by less than three percent in 1990 and actually declined by seven percent in 1991. These attendance declines were matched by gross handle reductions of 5.4 percent in 1990 and nine percent in 1991.)

The Committee was interested to note that declines in attendance were not matched by declines in track handle. In fact, while attendance at Suffolk Downs declined by forty-five percent from 1982 through 1989, the gross handle declined by only twenty-four percent. Similarly, while the Wonderland Park attendance declined by four percent, that track's gross handle increased by thirty-four percent. As the result of these two shifts, from 1982 through 1989 the Suffolk Downs per capita handle increased by thirty-nine percent, from $135 to $188, while the Wonderland Park per capita handle increased by thirty-eight percent, from $111 to $153 **(see Chart Six)**.

These data indicate that Suffolk Downs, and Wonderland Greyhound Park were increasingly being supported by a shrinking client base. Each track was depending upon fewer patrons to supply more and more revenue, a situation that the Committee believes could prove untenable over time.

According to data reviewed for this study, the reliance of Suffolk Downs on a diminished client base has not been remedied. The track generated, in 1992, its second highest per capita handle since 1980 ($186). Those monies were derived, however, from the smallest number of paid patrons since 1980.[8]

"The Take-Out Rate"

Massachusetts pari-mutuel racing revenue is apportioned according to a state regulated formula (as defined by M.G.L. Ch. 123A). The formula defines the "take-out" rate, which directs various percentages of revenue to the accounts and factions within the racing industry. The take-out rate has been periodically altered to reflect industry standards, or to boost lagging revenue

[8]Excepting 1990 and 1991 when the track was dark.

returns.

According to Chapter 144 of the acts of 1991 the Commonwealth's share of the take-out rate was defined as follows:

> running horse - .75 of one percent of total amount wagered;
> harness horse - 1.25 percent of total amount wagered;
> greyhound dog - seven percent of total amount wagered.

Chapter 101 of the Acts of 1992 amended the take-out rate applicable to harness horse and greyhound dog racing revenue:[9]

> running horse - .75 of one percent of total amount wagered;
> harness horse - .75 of one percent of total amount wagered;
> greyhound dog - five percent of total amount wagered (4.5 percent after exceeding prior year revenue).

This was the sixth adjustment to the take-out rate since 1980. Over the past twelve years, the Commonwealth's share of the running horse revenue has declined by 566 percent, while its share of harness horse revenue has declined by 300 percent, and its share of greyhound dog racing revenue has declined by twenty percent.

Greyhound dog racing has long provided more revenue to the Commonwealth than either running or harness horse racing (see **Chart Seven: Pari-Mutuel Revenue to State**). In 1982 the Commonwealth received $20.9 million from the greyhound industry and $13.2 million from the running horse industry. In 1989, the state received $31.8 million from greyhound racing (an increase of forty-two percent) and $3 million from running horse racing (a decrease of 77 percent).

In 1992, the year that racing resumed at Suffolk Downs, statewide attendance at running horse events increased by 462 percent (from 156,000 to 877,719) yet state revenue from running horse wagers increased by only fifty-three percent (from $1.19 million to $1.81 million).

The ratio of "dog to horse" revenue that the Commonwealth receives from pari-mutuel racing

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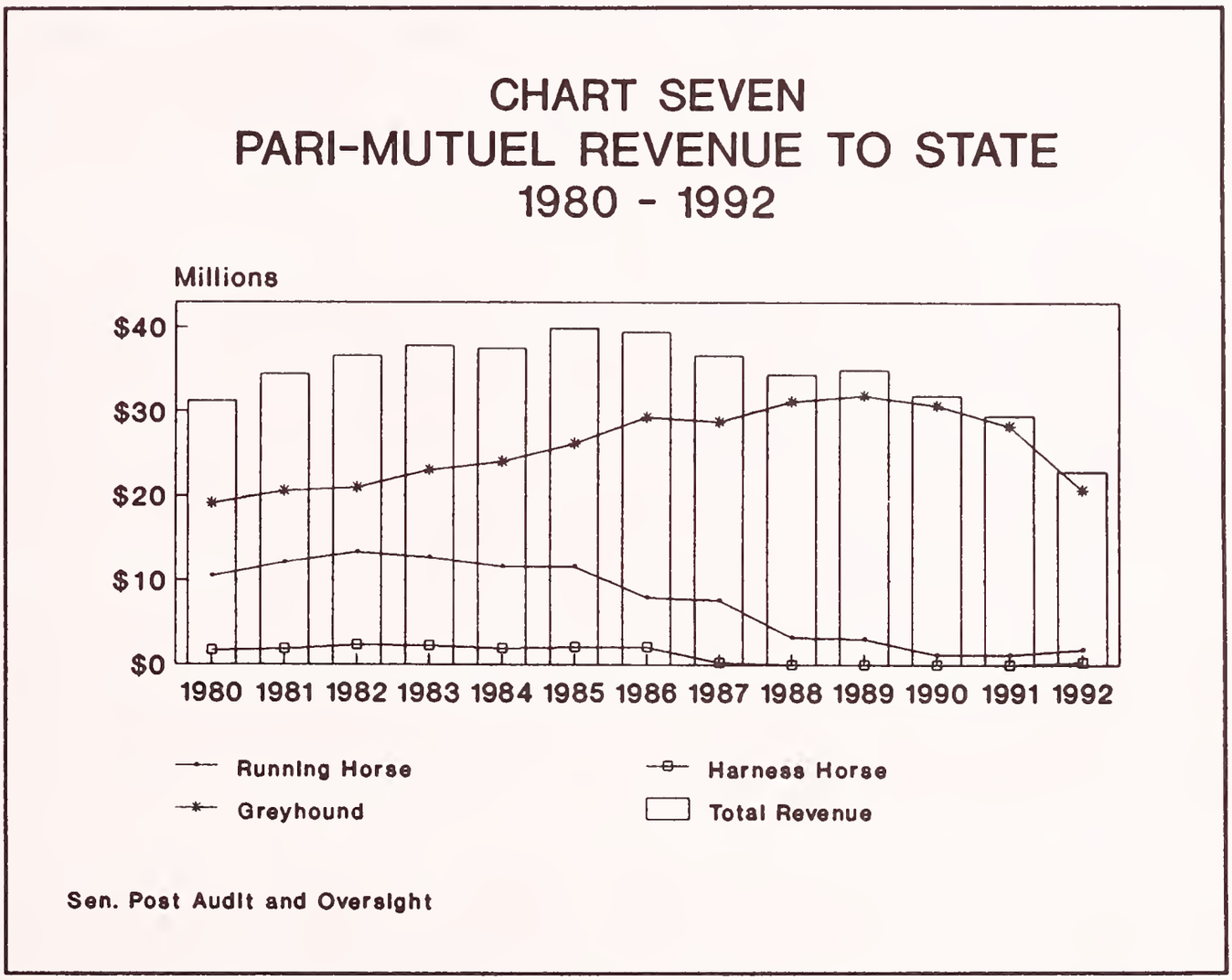
[9]The current take-out rate differentiates between simulcasting and non-simulcasting events. Non-simulcasting revenues are apportioned to specific Capital Improvement Trust Funds, Promotional Trust Funds, breeder associations, the Tufts Veterinarian Program, and purse monies. Simulcasting events provide revenue to the host and guest tracks. The take-out rate applicable to this footnote relate to non-simulcasting events.

has increased in recent years from $1.57:$1 in 1982 (greyhound racing generated $1.57 for the Commonwealth for every $1 generated by thoroughbred racing); to $2.26:$1 in 1985; to $11.38:$1 in 1992.



The Profit Margin

The Committee utilized various economic indicators to ascertain the economic viability of the pari-mutuel industry. One of those indices was "retained revenue," which was defined by the Racing Commission as revenue retained by each track after funding the various take-out requirements. Retained revenue was typically used to cover each facility's operating

expenses.[10]

Throughout the greater portion of the 1980's pari-mutuel racing generated, on average, a combined $44 million for the state's combined license-holders, (approximately eight percent of the total handle). Suffolk Downs averaged approximately $15.5 million per year in retained revenue from 1982 through 1989 (**see Chart Eight: Annual Retained Revenue by Track**) while Taunton-Raynham and Wonderland averaged $12.8 and $11.6 million, respectively. Throughout this period, the state's combined fairgrounds averaged approximately $900,000 per year, while the harness horse racing facility at Foxboro retained approximately $5 million per year from 1982 through 1985.

Industry spokespersons testified that horse racing facilities are more expensive to operate than dog racing facilities. This is evidenced by the declarations of profit reported by each facility to the State Racing Commission. A Committee review of these statements from 1982 through 1992 indicates that although the greyhound race tracks generated lower amounts of retained revenue, they realized more consistent profit margins than their horse racing counterparts (**see Chart Nine: Annual Association Profit, by Track**).

Wonderland Park was the only Massachusetts pari-mutuel facility to realize profits in every year from 1982 through 1990. The track's best year came in 1987 when it generated slightly less than $2 million in profits. Profits dropped below $1 million for the next three years. Wonderland Park lost $204,000 in 1991, and $379,000 in 1992.

Raynham-Taunton Dog Track generated over $1 million in profits for nine separate years during the period studied, and over $2 million for 1988, 1989, and 1991. And while the track

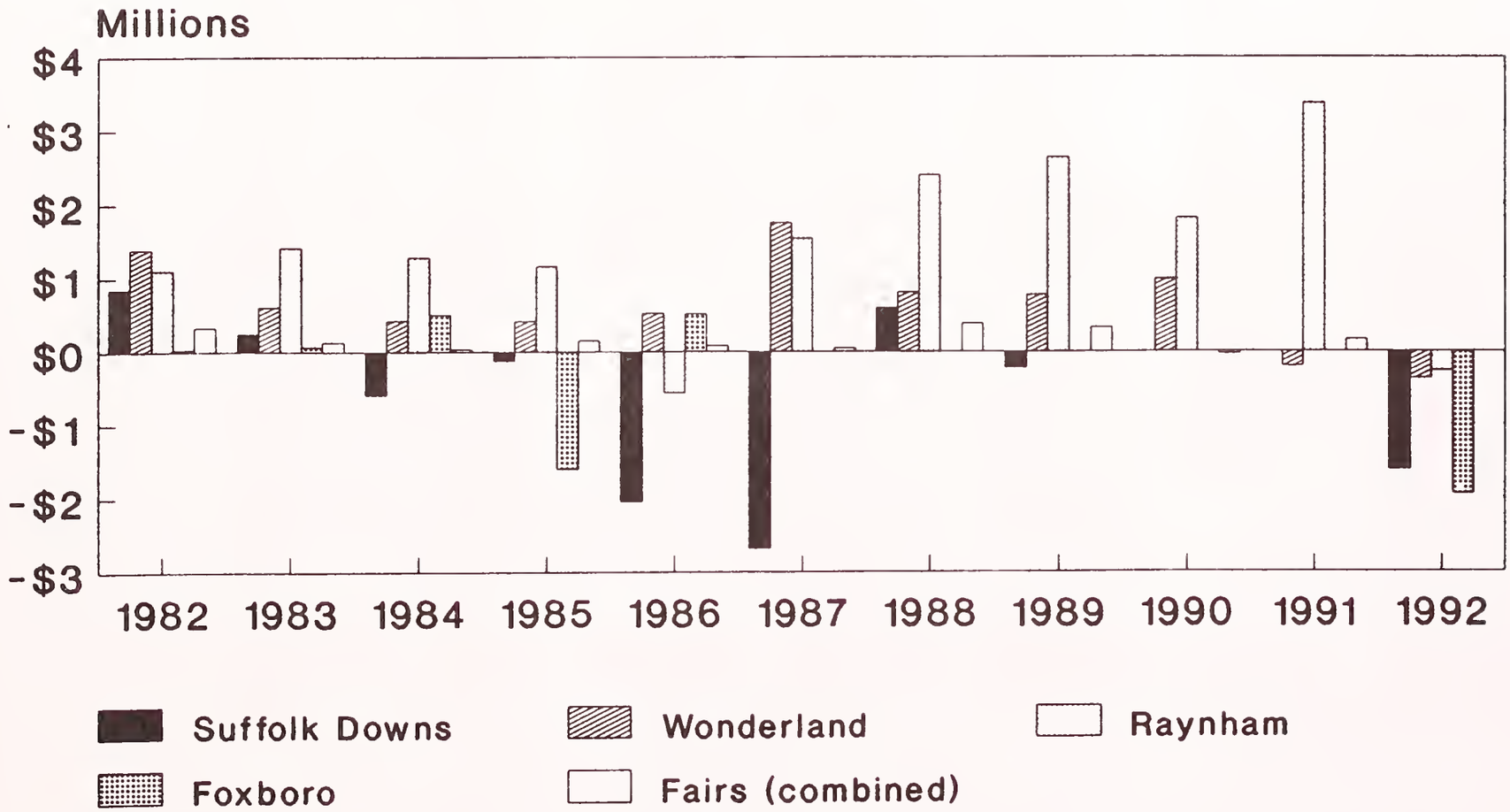
[10]For purposes of this measure, the Committee combined the two license holders who share the Raynham-Taunton facility.

CHART EIGHT
ANNUAL RETAINED REVENUE

	Suffolk Downs	*Wonder-land*	*Raynham-Taunton*	*Foxboro*	*All Fairs*	*Total*
1982 revenue	$15,825,318	$9,808,152	$9,804,173	$5,501,935	$1,706,180	$42,645,758
% of total	37.1%	23.0%	23.0%	12.9%	4.0%	100.0%
1983 revenue	$15,104,700	$10,009,735	$9,966,551	$5,053,963	$1,102,032	$41,236,981
% of total	36.6%	24.3%	24.2%	12.3%	2.7%	100.0%
1984 revenue	$15,346,149	$9,668,940	$10,727,713	$5,892,038	$804,840	$42,439,680
% of total	36.2%	22.8%	25.3%	13.9%	1.9%	100.0%
1985 revenue	$15,519,439	$9,486,532	$11,796,536	$5,709,980	$628,577	$43,141,064
% of total	36.0%	22.0%	27.3%	13.2%	1.5%	100.0%
1986 revenue	$8,556,153	$10,687,941	$8,580,078	$2,743,384	$682,494	$31,250,050
% of total	27.4%	34.2%	27.5%	8.8%	2.2%	100.0%
1987 revenue	$16,602,155	$14,138,718	$15,576,514		$757,969	$47,075,356
% of total	35.3%	30.0%	33.1%		1.6%	100.0%
1988 revenue	$19,856,964	$15,569,314	$18,916,658		$962,253	$55,305,189
% of total	35.9%	28.2%	34.2%		1.7%	100.0%
1989 revenue	$17,304,221	$14,114,430	$17,543,051		$983,987	$49,945,689
% of total	34.6%	28.3%	35.1%		2.0%	100.0%
1990 revenue		$14,229,295	$15,650,954		$907,690	$30,787,939
% of total		46.2%	50.8%		2.9%	100.0%
1991 revenue		$21,699,237	$21,985,112		$1,727,530	$45,411,879
% of total		47.8%	48.4%		3.8%	100.0%
1992 revenue	$19,005,075	$10,220,926	$13,538,278	$3,181,387	$314,792	$46,260,458
% of total	41.1%	22.1%	29.3%	6.9%	0.7%	100.0%

Sen. Post Audit and Oversight

CHART NINE
ANNUAL PROFIT, BY TRACK
1982 - 1992



1992 Foxboro includes all racing.
1992 Wonderland and Foxboro unaudited.

officially reported a loss of $267,000 for 1992, the Taunton Dog Track, Inc. (which shares the tracks license with the Massasoit Greyhound Association, Inc.) recorded profits of over $149,000 for the period dating July 3 through December 31, 1992.

The profit margin on thoroughbred horse racing fluctuated widely from 1982 through 1992. Suffolk Downs generated more than $1 million of profit in 1982, then lost more than $2 million in 1986 and 1987, and more than $1.5 million in 1992. Foxboro thoroughbred racing fared little better, generating two years of profits (in 1984 and 1986), yet losing close to $1.5 million in 1985 and in 1992. (In 1992 Foxboro Park listed 138 fewer performances than Suffolk Downs, yet lost almost as much money ($1.4 million).

According to records reviewed by the Committee, thoroughbred racing in Massachusetts has lost money for six of the seven years it has operated since 1984.

Simulcasting

The Massachusetts State Racing Commission estimated that simulcasting would generate approximately $1.2 million annually in new pari-mutuel revenue. This was based, in part, on an anticipated twelve month simulcasting schedule, and represented an eight percent increase over 1991 horse racing revenue.

(This forecast undercut the twelve percent revenue increase that New Hampshire's Rockingham Park realized after implementing inter-state wagering in 1991.)

Simulcasting was signed into law with the passage of Chapter 101 of the Acts of 1992.[11] Chapter 101 provided that horse racing facilities could send or receive an unlimited number of events to inter- or intra-state facilities, and provided for the co-mingling of funds. (Co-mingled funds (between the guest (receiving) track and the host (sending) track) allow uniform odds at both tracks.)

Theoretically, simulcasting would expand the pari-mutuel market and generate enhanced revenue, thereby allowing larger potential pay-offs. Simulcasting was drafted as an industry support mechanism. The Commonwealth's take was set at 3/8 of one percent. The state would, therefore, receive $4,500 if simulcasting generated $1.2 million in new pari-mutuel revenue.

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[11]The state Racing Commission independently voted to allow simulcasting prior to the passage of Chapter 101, which was signed into law in July, 1992.

Racing industry regulators and principals have long been concerned with "protecting the live event." This concern extended to the implementation of simulcasting. To prevent the dilution of racing, therefore, Chapter 101 provided that, before a Massachusetts track could simulcast a specific event, the receiving (guest) track would have to obtain the consent of any other Massachusetts track that offered the same class of racing. For example, if track A offered running horse racing during a certain period, track B could not simulcast a running horse event without the consent of track A.

Chapter 101 also included a provision for limited greyhound simulcasting. Licensees were allowed to simulcast up to fifty racing cards and fifteen special events (with purse monies in excess of $100,000) in a calendar year. Greyhound licensees were subject to the "consent of same class" prohibitions outlined above.

The right to simulcast was contingent upon a license holder conducting a full schedule of racing performances, which was defined as composing at least 150 live racing performances, each performance having seven live races.

Approval to send and receive simulcast signals was subject to application and consent of the State Racing Commission. (The Commission did not approve greyhound simulcasting until 1993.)

Simulcasting was implemented in 1992. Patrons at Suffolk Downs placed over $53 million in wagers at sixteen different tracks, including Gulfstream, Churchill Downs, Pimlico, Arlington Park, Meadowlands, Santa Anita, Laurel Race Course, Hollywood Park, Aqueduct, Belmont, Calder, Garden State, Foxboro Park, Freehold, Keenland, and Hawthorne. Patrons at Foxboro Park wagered over $22 million on races at Belmont, Pimlico, Laurel Race Course, Calder, Arlington, Bay Meadows, Meadowlands, Yonkers, Freehold, Suffolk Downs, Delmare, PennNational, Rockingham, Atlantic City, Saratoga, Santa Anita, Pompano, Aquaduct, Gulfstream, Hollywood, and Philadelphia Park.

The Commonwealth did not derive any revenue from these "exported" wagers.

The Commonwealth did receive a percentage of revenue from "imported" wagers, bets placed by patrons at out-of-state tracks on Massachusetts pari-mutuel events. Approximately $41 million was wagered by patrons of Rockingham, Seabrook, Hinsdale, Lakes Region, Garden

State, Meadowlands, Atlantic City, Freehold, and Newport on racing at Suffolk Downs. Approximately $5 million was wagered by patrons of Suffolk Downs, Newport, Seabrook, Belmont, Rockingham, Hinsdale, and Garden State on racing at Foxboro Park.

Data reviewed by the Committee indicate that $75 million was wagered by Massachusetts pari-mutuel patrons on out-of-state races in 1992, while $46 million was wagered on Massachusetts races by out-of-state patrons. As the result of simulcasting, therefore, Massachusetts bettors sent approximately $1.62 out of the state for every $1 that out-of-state bettors sent to the Commonwealth. This means that the Commonwealth ran an inter-state simulcasting "debt" of approximately $29 million.

The lack of attractiveness of Massachusetts racing is reflected in the lack of market acceptance by out-of-state tracks and their patrons of the Massachusetts product. Compare, for instance, the list of tracks whose signal was received by Suffolk Downs and Foxboro Park with the list of tracks who received the Suffolk Downs and Foxboro Park signals. Suffolk Downs bettors wagered on races run at first-tier tracks, among the finest in the nation, while the tracks who were willing to take the signal from Suffolk Downs and Foxboro Park were largely second-tier tracks.

The Committee recommends that the pari-mutuel industry strengthen its product, and make it more attractive, to both the in-state and out-of-state patron, by increasing purse monies so that a better class of horses can be fielded.

Section seven of chapter one hundred one of the acts of 1992 directed the Massachusetts State Lottery to conduct a thoroughbred, standardbred, and greyhound dog racing sweepstakes lottery game which would generate:

- increased purse monies;
- revenue for the humane disposition of dogs;
- increased profits for the tracks;
- revenue for county agricultural schools; and
- increased revenue for the Commonwealth.

Properly promoted, a Sweepstakes Lottery would provide much needed publicity and exposure for the pari-mutuel industry. For too long, the Lottery and the pari-mutuel industry have acted as competitors, not as counterparts in the Massachusetts economy. A Sweepstakes Lottery would represent the first instance whereby the state Lottery complemented the efforts of what

remains a significant employment source in the state.

The Lottery's unwillingness, or inability to develop and coordinate the Sweepstakes program is most visible proof that the Commonwealth truly needs a coordinated gaming policy.

Economic Impact of Pari-Mutuel Racing

The Commonwealth of Massachusetts derives very little tax revenue from pari-mutuel racing. The state's "straight race take-out rate"[12] is one of the lowest in the country and is essentially an industry sop, providing more monies for racing principals and patrons in the hope of strengthening the industry.

According to data reviewed by the Committee, approximately 8,800 persons in the Commonwealth derive some sort of economic support from pari-mutuel racing. This includes 7,600 workers licensed by the State Racing Commission (as animal owners, trainers, and assistant trainers) and 1,200 persons who are directly employed by the state's four tracks (i.e. mutuel clerks, concession workers, and administrative employees).

Suffolk Downs employed the greatest number of full-time equivalent workers in 1992; the Massasoit Greyhound Association (the largest operating concern at Raynham-Taunton) employed the fewest (see **Chart Ten: Pari-Mutuel Payroll**). The combined payroll for the four Massachusetts tracks equalled approximately $19.3 million.

Greyhound tracks offer more live racing than the more weather-sensitive horse tracks. Wonderland Greyhound Park offered live racing on 259 days in 1992; live racing was run at Raynham-Taunton during 290 days. Live horse racing was conducted for 172 days at Suffolk Downs and for 106 days at Foxboro Park.

Prior to simulcasting, tracks were closed to both patrons and employees when not offering live racing. Tracks now offer pari-mutuel gaming after the live has been concluded, and on so-called "dark days", when there is no live event scheduled. In fact, "dark simulcasting" generated almost $40 million for Suffolk Downs in 1992 and $8.2 million for Foxboro Park.

Although simulcasting has extended the pari-mutuel season at each of the Massachusetts tracks,

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[12]"Straight" bets are win, place and show bets; "exotic" bets are combination wagers i.e. the first two dogs, or the first horse in two consecutive races.

the total number of pari-mutuel employees in the Commonwealth has, in recent years, declined. The Committee was interested to note that the four Massachusetts pari-mutuel racing facilities employed twenty-three percent fewer workers in 1992 than they employed in 1986, the last time that all four facilities were operating.

CHART TEN
Pari-Mutuel Payroll

	Employees (FTE's)	*Operating Budget*	*Payroll per FTE*
Massasoit Greyhound Assoc. Inc.			
1986	207	$16,811,000	$18,841
1987	224	$19,944,000	$18,341
1988	232	$22,549,000	$19,050
1989	228	$23,424,000	$19,417
1990	222	$21,138,000	$20,376
1991	220	$21,282,000	$20,798
1992	213	$18,726,000	$21,188
Foxboro Park			
1992	242	$3,400,000	$4,145
Wonderland			
1986	400	$18,000,000	$11,475
1987	400	$22,800,000	$14,079
1988	400	$29,500,000	$16,004
1989	400	$27,100,000	$16,192
1990	300	$26,100,000	$22,011
1991	391	$25,000,000	$17,008
1992	350	$24,100,000	$18,591
Suffolk Downs			
1992	403	$24,300,000	$18,692

Data provided by licensee
Sen. Post Audit and Oversight

Off-Track Betting

On November 15, 1990 a state Racing Commission statement described the state of racing in the Commonwealth as "dire." The Commission stated that the 1989 termination of horse racing in the Commonwealth resulted in the loss of thousands of jobs, open space, and tax revenue, and that "there is no future for Massachusetts horse racing" without an expansion of its market through off-track betting.

On March 4, 1992 a Special Commission on Off-Track Betting was formed, and assigned "the task of developing a plan to implement off-track betting in the Commonwealth."[13] The Commission filed a report on December 31, 1992, stating that "a program of off-track betting would be in the best interest of the Commonwealth."

The Commission recommended that the Commonwealth could support seven or eight privately operated OTB facilities across the state. It recommended further, that the facilities could be jointly owned by "the three companies currently operating commercial race tracks in

[13]Report of the Governor's Special Commission on Off-Track Betting, December 31, 1992, page 3.

Massachusetts." In this way, OTB would become a segment of the larger racing industry, and not of the gaming industry, per se.

The report of the Special Commission did not include any attempt to measure the economic impact of off-track betting on the Massachusetts racing industry, the on-track handle, or the live event.

According to industry experts, OTB (like simulcasting) provides for market expansion. This is especially relevant in larger states, such as New York, and Illinois, where OTB provided access to residents who were regionally displaced from pari-mutuel facilities.

OTB could similarly benefit the Commonwealth. The state's four pari-mutuel facilities are all located within the "Route 495 belt." Seasonal fairground racing is currently available in Western Massachusetts. OTB will, however, introduce year-round pari-mutuel racing to Western Massachusetts.

The Committee believes that OTB would generate a measure of new revenue for the pari-mutuel industry. States implementing OTB have all realized growth in the overall racing handle. Racing officials all stressed, however, that OTB would not generate a revenue spike, rather it would help reduce the diminution of revenue that the industry has otherwise experienced.

The addition of OTB was often accompanied by a simultaneous reduction in the on-track handle. Overall track attendance declined in New York and Illinois following the implementation of their respective OTB networks. Illinois officials, in particular, noted that the on-track handle and attendance figures declined as the number of OTB parlors in the state increased from two, to nine, to (the current level of) twenty.

OTB parlors in most of the states surveyed by the Committee were privately owned and operated, generally by current pari-mutuel license holders. According to officials in states, the decision to link parlor ownership a pari-mutuel license was universally political in nature, and intended to mollify the impact of the expected decline in the on-track handle. For example, from 1989 through 1990 the Louisiana off-track handle increased by 304.5 percent, while the

on-track handle declined by 19.1 percent.[14]

All officials stated, however, that, revenue considerations notwithstanding, prospective OTB parlor ownership should hinge on a license-holders proven ability to manage a pari-mutuel facility. License holders who had run a pari-mutuel track into the ground should not be afforded the opportunity to similarly abuse an off-track betting facility.

In an effort to project the potential revenue that the Commonwealth could expect from off-track betting, the Committee compared the revenue figures from Illinois, New York, and Louisiana from 1987 through 1992. After calculating weighted averages of each state's off-track, on-track, and total pari-mutuel handle, the Committee estimates that the introduction of OTB in Massachusetts, while negatively impacting the on-track handle, could result in a thirty percent increase in the gross pari-mutuel handle, or approximately $147 million. This would translate into $3 million in new revenue for the Commonwealth.[15]

Conclusion and Recommendation

The depressed state of racing within the Commonwealth is reflected in the various indices that the Committee has reviewed and presented. Although OTB may generate new revenue for the pari-mutuel industry, that revenue will, in all probability, be generated at the expense of the on-track handle.

Therefore, in order that OTB be integrated with as little disruption to the live event as possible, the Commonwealth must, before implementing the policy, outline various parameters, including:

- whether to utilize OTB as a revenue generator (providing an adjunct source of industry revenue) or a revenue maximizer (providing the maximum amount of revenue for the state);
- the number and locations of OTB facilities around the state;

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[14]Brar, Jagjit S., Analysis of Pari-Mutuel Takeout, Horse racing in Louisiana, Louisiana State Racing Commission, June 1991, page 15.

[15]Calculated from the combined weighted average of OTB revenues to total racing revenue in Illinois dating 1987-92, New York dating 1989-91, and Louisiana dating 1988-91 as stated in the "1993 World Gambling Abstract." This estimate would decline if thoroughbred wagering composed more than thirty percent of all OTB wagers within the Commonwealth.

- whether OTB facilities should be publicly or privately owned and operated (with private facilities awarded by a bid process);

- whether OTB facilities should be allowed to offer electronic gaming, in the event this venue is legalized;

- whether pari-mutuel tracks should be awarded a percentage of OTB generated revenue;

- whether the horse and dog owners and breeders should be awarded a percentage of OTB generated revenue.

The Committee believes that, implemented improperly, off-track betting could negatively impact the economic viability of the Massachusetts racing industry. *The Committee recommends, therefore, that the Commonwealth implement limited off-track betting. OTB facilities should be strategically located around the Commonwealth, one in Barnstable County; one in Essex County; two in Berkshire County; two in Worcester County; one in Bristol County; and one in Middlesex County.*

Six of these facilities should be privately owned and operated, and distributed according to a closed bidding process that has been approved by the state purchasing agent. (Current pari-mutuel license holders should be eligible to individually, or cooperatively submit bids for facility ownership.) As an industry support mechanism, one OTB facility should be owned and operated by the horse owners and breeders, and one facility should be owned and operated by the dog owners and breeders. Each of the eight OTB license holders should be required to pay an annual licensing fee to the Commonwealth.

Each OTB facility should be required to handle Massachusetts events. Facilities should also be allowed, however, to offer any wagering options that are extended to Massachusetts pari-mutuel race tracks (i.e. (future) electronic gaming, and the Massachusetts State Lottery).

The Committee makes no pretense as to the impetus behind the move to legalize off-track betting. Simply stated, OTB will be another attempt at assisting the racing industry. As such, *the Committee recommends that the Commonwealth's percentage of off-track betting not exceed the percentage of revenue it receives from live racing.*

PART THREE: ELECTRONIC GAMING

The national expansion of gaming over the past few years has been driven by several factors, including:

- the propagation of state lotteries;
- consumer acceptance of gaming as a form of legitimate entertainment;
- the propagation of Indian gaming;
- the recession;
- the desire to maintain, or expand government services without addressing the maintenance, or expansion, of tax revenue.

The following gaming venues were within a one-hour automobile commute of most Massachusetts residents in 1993: off-track betting (New York); Keno (Rhode Island); video wagering machines (Rhode Island); land-based casino gaming (Connecticut); riverboat casino gaming (Connecticut); and jai a'lai (Rhode Island).

KENO

There are two main electronic gaming categories: keno, a hybrid of bingo and the state lottery; and video wagering machines, colloquially known as "video poker."

Keno is an unskilled game of chance. Players pick a sub-set from between forty to eighty numbers and receive a payoff based upon the number of correct picks. The game can be structured around weekly drawings, daily drawings, or multiple drawings per day. Rhode Island Keno is drawn every five minutes.

Keno can be played through a central computer terminal, similar to the state lottery's on-line system, or through a series of "individual" terminals (similar to video slot machines). Keno is legalized in Oregon, Nebraska, Washington, Maryland, Colorado, Rhode Island, and Michigan, and will be introduced into Kansas later this year.

A Committee survey of state's offering Keno in recent years showed that monthly gross sales figures averaged between $1 million and $3 million. Prizes consumed fifty to sixty percent of these monies, while state and local governments retained approximately thirty percent of gross revenue (**see Chart Eleven: Keno Statistics**).

Keno is generally located in an age controlled environment (pouring establishment) and general entertainment facilities (i.e. bowling alleys or restaurants). It is played at 450 locations in Rhode Island; 925 locations in Maryland; 1,200 locations in Washington; 1,300 in Colorado; and in 2,080 locations in the state of Oregon.

CHART ELEVEN
KENO STATISTICS

	Number of Locations	*Revenue FY93*	*percent. to state*
California	7226	$4.5M/wk	34.0 %
Maryland	925	$3.9M/wk	32.7 %
Nebraska	201	$2.7M/wk	11.0 %
Oregon	2080	$2.1M/wk	23.5 %
Rhode Island	450	$750K/wk	32.0 %
Washington	1166	$300K/wk	40.0 %
Colorado*	1300	$260K/wk	23.5 %

**=FY92 & FY91*

The Committee did not find conclusive evidence that Keno negatively impacts state lottery sales. Some states reported that Keno led to a reduction in lottery sales:

- Instant Game sales declined in Colorado;
- all lottery categories declined in Maryland;
- three and five number game sales declined in the state of Washington.

Other states, however, reported that Keno did not negatively impact lottery sales:

- Maryland Lottery sales increased by $7.2 million;
- Oregon Lottery sales increased by $92.9 million.

Keno will soon be available in Massachusetts. Chapter 110 of the acts of 1993 authorized and directed the State Lottery to develop and implement Keno by October 1, 1993. A "keno license" will be available to any person "licensed under section twelve of chapter 138 of the general laws or under section twenty-seven of chapter 10," any licensed pouring establishment, or any licensed lottery agent in the Commonwealth.

There are presently over 6,500 lottery agents in the Commonwealth, and 8,451 pouring

establishments (selling alcohol for consumption on the premises) including:[16]

•restaurants	= 5,621
•taverns	= 45
•hotels	= 293
•clubs	=1,256
•general on-premise,no food	=236.

The Lottery Commission will determine the size and geographic distribution of the Keno license network.

Recommendation

The Committee recommends that Keno not be offered at on-line lottery locations. In recent years Massachusetts lotto-style game sales have been declining. Megabucks sales are down 44 percent from 1990, while Mass Millions sales are down by 12.8 percent. In direct competition, Keno could destroy the lotto-style games.

The Committee also recommends that Keno be implemented gradually. Placing the game into a wide array of locations will undoubtedly result in an immediate infusion of new revenue. This revenue may, however, come at the expense of charitable gaming revenues. In 1992 over $267 million was generated by charitable gaming programs, including $160 million from beano (bingo); $82 million from charity games; $19 million from raffles; and $4.9 million from casino functions.

Although Chapter 110 provided that the Lottery Commission include "the participation of charitable gaming licensees" during its implementation, the Committee believes that Keno could prove detrimental to charitable gaming receipts, particularly to Beano revenue. Gradual implementation would allow the Lottery to gauge Keno's impact on charitable gaming receipts. If necessary, the Commonwealth could dedicate a portion of gross Keno sales to charitable gaming.

VIDEO WAGERING MACHINES

Video wagering, the second major category of electronic gaming, has been legalized in Rhode Island, Oregon, Louisiana, West Virginia, Montana, South Dakota, New Jersey, and Nevada. Twenty-three additional states are "currently considering video lottery implementation."[17]

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[16]Alcohol Beverage Control Commission.

[17]Hearing transcript, volume three, page sixty-six.

The Committee received conflicting testimony on whether video wagering should be classified as a game of chance or a game of skill. Games of chance, such as a state lottery, or keno, allow every player an equal chance at winning. Games of skill, such as pari-mutuel wagering, require that players have a certain knowledge base, or talent.

Electronic gaming experts testified that video wagering machines (such as video poker) often require a basic understanding of card rules and decision making. As such, oversight for video wagering machines should not be provided by the state lottery, whose responsibility lies in unskilled gaming.

Video wagering machines are, essentially, a variation on the slot machine, the difference being in the method of prize payment. Slot machines dispense coin prizes, whereas video wagering machines dispense paper tickets, which are then exchanged for cash prizes. Most video wagering machines are set to pay out between 90-94 percent of gross receipts as prize monies.

Many states have placed wager and payout limits on electronic gaming. States limiting the maximum wager include:

•Oregon	$2.00
•Louisiana	$2.00
•Montana	$2.00
•Rhode Island	$2.50

States limiting the maximum prize include:

•Montana	$100
•Louisiana	$500
•Oregon	$600
•Rhode Island	$1,000
•South Dakota	$1,000

Devised correctly, wager and prize limits make electronic gaming less expensive or rewarding than the state lottery's Instant Game tickets.

Like Keno, video wagering machines are generally located in an age controlled environment. Video gaming is permitted in South Dakota and Oregon pouring establishments, and restricted to West Virginia and Rhode Island pari-mutuel facilities. Louisiana allows video wagering in bars, restaurants, pari-mutuel facilities, and truck stops.

As with any new venue, the state must, before implementing video gaming, decide whether to use it as a revenue supplement, or to maximize revenue. The state must, therefore, decide the issues of machine ownership and placement.

Machine Ownership

The video wagering net income (post-prize monies) are divided between state and local governments, the machine owner/operators, and the facility license-holder.

Security can be provided either via a central computer system or the independent monitoring of each terminal. Many states utilize the central computer system, with an inter-connecting network similar in design to the state Lottery's "on-line" system. A central computer could monitor the activity of each terminal, including payout rates, player activity, and whether a machine has been inappropriately accessed.

Testimony indicated that the same information can be individually gathered from independently monitored machines.

States which have devised video gaming around the network model have utilized one of three basic designs:

- publicly owned network, publicly owned machines;
- single company owns network, same company owns machines;
- single company owns network, several companies own machines.

(The state of Oregon mixes the first and third options: Oregon owns and operates its computer network while four independent companies own and operate the state's video wagering machines. The machine operators all share in the net income.)

A publicly owned network would generate the highest percentage of retained revenue for the state. This would, however, require a large initial capital expense as the state would have to purchase the video wagering terminals, and implement the central computer network. Testimony indicated that each video wagering machines could cost upwards of $7,500. Depending on the size of the network, the entire system could require an initial expenditure of over $200 million.

Privately owned and operated networks would place the capital expenditure onus on the vendor. A state utilizing this method would choose between a system whereby one vendor owns

the network and the terminals, or a system where one vendor owns the network, and facility license holders own individual machines.

The Committee believes that the latter system is superior to other options. Although the network, itself, would have to be individually owned and operated, the Committee received no evidence indicating that the video terminals should be owned by the network operator. Instead, testimony indicated that current technology allows the participation of a wide number of machine manufacturers and owners without affecting the integrity of the system's security.

The Committee believes that multiple machine owners would stimulate competition, and variety among the games that were being offered. It would also give each facility license holder a personal stake in the success of the machine, and in the facilities conformance with regulations and requirements.

Furthermore, limiting the entire system to one vendor could prove difficult to independent coin machine operators. The Committee received testimony indicating that the coin operator industry was precarious, and at risk from video wagering:

- "in other states where legal video (wagering) comes into being, patrons vastly decrease using all other coin-operated amusement machines";[18]
- after video wagering was introduced in South Dakota non-gaming video machines "suffered a 50 percent decline in use";
- video wagering led to a "35 percent reduction in dart and music revenues;"
- in Montana, video wagering led to reduced usage of pool tables and other machines as they have been "moved out to make room for the more profitable video lottery machines" by facility owners.[19]

According to the Massachusetts Gaming Association, barring coin operators from a shared participation in video wagering machines would put them "out of business."

Machine Placement

After deciding machine ownership, the Commonwealth must decide whether to place gaming

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[18]Official transcript. vol. 3, page 129.

[19]Out of state examples from Study of the Economic Benefits of Video Lottery in the state of Illinois, George T. McCandless, Jr., University of Chicago.

devices in a widely dispersed, or closely limited pattern. Two main issues have been developed:

- video wagering should be limited to pari-mutuel facilities, such as tracks and (proposed) off-track betting establishments, or

- video wagering should be limited to pari-mutuel facilities and licensed "on-premise" pouring establishments.

Testimony indicated that each video gaming device could generate between $400 and $750 per week in net profits, depending on location. Machines located in pouring establishments generate net profits of approximately $400 per week; machines located in pari-mutuel facilities generate between $750-$1,000 per week.

If the Commonwealth decides to use video wagering to *supplement* its revenue stream, machines should be limited to a fairly narrow distribution pattern, such as in pari-mutuel facilities. If the Commonwealth chooses to use video wagering to *maximize* revenue, machines should be placed in a wide distribution pattern, such as pari-mutuel facilities, and on-premise pouring establishments.

Each state surveyed by the Committee utilized a different distribution pattern. The states of West Virginia and Connecticut limited video wagering to pari-mutuel facilities. The state of Louisiana allows video wagering in any facility with a liquor license. Reportedly, liquor licenses in Louisiana are held by grocery stores and barbershops. Therefore, while West Virginia has 165 legal video wagering machines, the state of Louisiana has over 9,895 video machines (see **Chart Twelve: Video Wagering Machine Statistics**).

Most states limit the number of machines that each licensee may operate. For example,

- Oregon allows a maximum of 5 machines per establishment;

- South Dakota allows ten machines per establishment;

- Montana allows twenty machines per establishment;

- Louisiana limits each class of facility:
  - -bars, taverns, hotels, and motels can operate three machines per facility;
  - -truck stops can operate fifty machines;
  - -pari-mutuel facilities have no machine limit.

Depending on their placement, video wagering machines may attract up to $4,000 per week.

CHART TWELVE
VIDEO WAGERING MACHINE STATISTICS

	Number of Locations	*Total Machines*	*Net VWT $ per day*	*% of Net to State*
Oregon	1124	5164	$101	45
Montana	1615	12400	$34	15
Louisiana	3531	9895	$57	22.5
Wst Virginia	1	165	$85	20
Rhode Island	2	1337	$30	DNR
South Dakota	1350	6500	$57	29
Alberta, Can.	1200	1200	$200	60
Manitoba, Can.	600	4140	$44	DNR

Net defined as revenue after prize payouts.

DNR=did not respond

Sen. Post Audit and Oversight

A Committee survey showed that states retain anywhere from fifteen to forty-five to sixty percent of net (post-prize) revenue. Governmental revenue is also generated from a series of fees which are assessed against machine manufacturers, machine distributors, machine operators, machine owners, and the establishments within which machines are located. For example:

MONTANA	fee
Manufacturer:	$1,000
Distributor:	$1,000
Operator:	$200

SOUTH DAKOTA	fee
Manufacturer:	$5,000
Distributor:	$5,000
Operator:	$1,000 or $100 per machine
Establishment:	$100

LOUISIANA	fee
Manufacturer:	$5,000
Distributor:	$3,000
Operator:	$1,000
Owner:	$1,000
Establishment:	$100

While endorsing no single viewpoint, the Committee presents below the statement of Richard H. Currie of Williams Gaming, Inc. which incorporated many of the issues presented by those

who testified on the issue of video wagering machine placement:

Statement of Richard Currie

"In building our model for Massachusetts, we would make a composite of what has already been done. We will assume the following:

•machine density	5 per location
•maximum bet	$2.00
•maximum win/play	$1,000
•maximum payout %	92 percent

The average weekly net revenue per terminal for the five U.S. jurisdictions is $442. For the purpose of modeling, we have assumed a conservative average net per device of $400.

Published reports suggest that there are 7,500 liquor pouring establishments in Massachusetts. It has also been reported that the present pari-mutuel facilities could accommodate 6,000 video gaming devices. Our assumption of 5 gaming devices per liquor pouring establishment would indicate a machine population of 37,500 units. However, our experience indicates an actual population would be 70 percent of the theoretical maximum, or 26,250 devices. We would also project that the pari-mutuel facilities would not achieve their anticipated saturation level. Therefore, we would downgrade their population to 3,000. These assumptions would yield a net revenue projection as follows:

Liquor pouring establishments: 26,250 (x) $400/wk = $10.5 million per week (x) 52 weeks = $546 million.

Pari-mutuel facilities: 3,000 x $400/wk = $1.2 million per week (x) 52 weeks = $62.4 million.

Total Net Revenue = $608.4 million.

Another scenario to evaluate would be to have pari-mutuel facilities as the only venue for video gaming. This would replicate the Rhode Island model. Under this format, 6,000 gaming devices might by an appropriate number. We would also project earnings per device to be higher ... $750 per device per week would be appropriate. Therefore:

6,000 devices (x) $750/device (x) 52 weeks = $234 million.

Based upon a comparison of these two scenarios, Commonwealth revenue is maximized through a fully expanded video gaming program.

A third format should also be considered. In this other option, liquor pouring establishments would operate under the assumptions listed above. However, pari-mutuel facilities would operate to a different set of rules. We would suggest:

•machine density	unlimited
•maximum bet	$5.00
•maximum win/play	$5,000
•maximum payout %	96 percent

Under these guidelines, pari-mutuels could clearly differentiate themselves from other gaming venues. They could position themselves as the "destination entertainment complexes" they are. These structural changes would alter our revenue projections. We believe a net of $1,000 per week is now reasonable, therefore:

$1,000 (x) 6,000 devices (x) 52 weeks = $312 million.

This would increase total net revenue, when combined with revenue from liquor pouring establishments, to $858 million." *(end of statement)*

If the Commonwealth received twenty-five percent of each machine's net income, the William's scenarios would generate between $58 million and $214 million in new state revenue.

Impact of Video Wagering

If legalized, video wagering would create a modest number of new jobs. It has been estimated that video wagering machines were responsible for creating 2,034 direct and in-direct jobs in South Dakota, and 3,897 direct and in-direct jobs in Montana.[20] Placing video wagering machines in a restricted number of locations would narrow the potential job creation; a wider range of locations would increase the job creation.

The Committee believes that restricting video wagering to a narrow band of locations, such as suggested by Richard Currie would turn those locations, the pari-mutuel facilities, into mini-casinos. This would endanger the prospective amount of revenue that would be wagered on live racing.

Video wagering may also negatively impact Massachusetts State Lottery sales. Incorrectly situated, video gaming could cause a reduction in Instant Game sales, (which target the same audience, seeking "instant gratification").

The Committee found a negative correlation between video wagering and state lottery Instant Games. For example, in 1992:

- Instant Games sales declined by 4.8 percent in Oregon;
- Instant Game sales declined by 4.8 percent in the province of Alberta, Canada;
- Instant Game sales declined by eighteen percent in Montana (although video wagering revenue increased by eleven percent);

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[20]McGhie, Donald E., "An economic teaser", International Gaming and Wagering Business, January 15, 1993, page 22.

- Instant Game sales declined by 12.7 percent in South Dakota (although video wagering revenue increased by twelve percent).

- Instant Game sales increased by twenty-six percent in West Virginia (although video wagering revenue remained static from 1991 to 1992).

Committee research indicates that the introduction of video wagering in Massachusetts could cause a fifteen percent reduction in the state Lottery's Instant Game sales. The Instant Games, however, generate 56.7 percent of the Lottery's total sales. A fifteen percent decline in Instant Game sales would translate into a gross revenue loss of over $158 million, and a net income (profit) loss of $47.5 million. In order to make up for this revenue loss, over $1.9 billion would have to be wagered on video gaming during the same fiscal period, more than was wagered on all Massachusetts lottery games during 1992.[21]

Video Wagering and Pari-Mutuel Racing

The Committee also believes that video wagering could pose problems for the pari-mutuel industry. If an unlimited number of terminals are placed in race-tracks around the state, video wagering may divert monies from "the live event", draining money away from the pari-mutuel handle upon which the industry depends.

According to the Kansas Racing Commission, video gaming was directly responsible for "devastating" the South Dakota racing industry "where one dog track closed and a second track experienced a 15-17 percent reduction in handles after the first year of video wagering."[22]

The state of West Virginia restricts video wagering to their pari-mutuel facility at Mountaineer Park. According to state officials, video wagering has caused the pari-mutuel handle to decline by approximately ten percent. Other factors may have contributed to the declining handle, including the economy, and the introduction of off-track betting in near-by Pennsylvania.

West Virginia officials told the Committee that, notwithstanding the decline in the pari-mutuel handle, they credited video wagering with having "helped keep the Park in business in a decreasing horse racing market." Mountaineer Park retained seventy percent of video wagering net (post-prize) revenue.[23]

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[21]Assuming that the Commonwealth retained 25 percent of the net proceeds, or 2.5 percent of the gross revenues wagered.

[22]Memorandum of Kansas Legislative Research Department, RE: Video Lottery, January 14, 1992, page 10.

[23]National Survey on Gaming Revenue, Senate Committee on Post Audit and Oversight.

The executive vice-president of the Fair Grounds in New Orleans, (which has a share of the 547 terminals that are located in Louisiana pari-mutuel facilities) stated that "if terminals are located in any proximity to the track outside the track, then it will most definitely cannibalize the handle of the track."

Removing pari-mutuel facilities as the locus of video wagering may diminish the overall policy's negative impact on the live event. Policy makers will have to balance the added revenue that an expanded video market would attract against the live-event impact that a narrow video market may carry.

However, if video wagering is legalized in Massachusetts, its implementation policy should not be designed to solely preserve and protect the pari-mutuel gaming industry at the expense of other segments of the Massachusetts economy. The pari-mutuel racing industry is an important facet of the state's overall economy. It is, however, no more important than the restaurant industry, the auto repair industry, or the coin-operated machines industry. The pari-mutuel industry can only be afforded so much attention before other segments of the economy begin demanding similar treatment.

Video Wagering Recommendation

The Committee believes that, if legalized, video wagering should be introduced to the Commonwealth slowly. Implementation and oversight would best be provided and coordinated through a state Gaming and Racing Commission that had the ability to simultaneously chart video gaming and pari-mutuel revenues, and the impact of each venue on the other.

The decision whether or not to develop video wagering around a central computer network should be made by the a Gaming and Racing Commission. The Committee did receive compelling testimony indicating that a central computer operation would be beneficial in terms of security and machine integrity. Other experts testified, however, that "independent, non-network" machines are tamper-proof and equally crime resistant. In fact, although the state of Nevada has more slot machines (152,000) than any other state in the nation, the Nevada Gaming Control Commission has not promulgated regulations mandating that machines be linked to a central computer system.

Any legalization of video wagering should be made in concert with limitations on wager and prize payments. The Commonwealth should adopt the $2 wager and $500 prize limits that other states have instituted. These limits make video wagering less expensive and rewarding than

the state Lottery's Instant Game.

The Commonwealth should also set limits upon the machines that can be placed in a community. Implementation should begin as a model program in an age-controlled, age-regulated environment, such as the state's pari-mutuel tracks, and future off-track betting facilities. These facilities, however, should not become video gaming centers that "also offer racing."

To discourage the pari-mutuel tracks from emphasizing video wagering to the detriment of the live event, the percentage of net profit that tracks receive from video wagering should not exceed the percentage of net profit that they receive from live racing.

The decision to expand into licensed pouring establishments could be made after the Commonwealth has practical experience in video wagering and can better gauge its impact on the state as a whole. Any expansion of video wagering into pouring establishments should also await a review of the impact of Keno on pouring establishments. Placing keno and video wagering into pouring establishments in quick succession could prove counter-productive. *The Committee recommends that video wagering be implemented on a gradual and studied schedule.*

If the decision is made to allow video wagering in "on-premise" pouring establishments, *the Commonwealth should calculate a maximum "machine per capita" ratio for each municipality, establishing the maximum number of machines that could be situated within a community.* This would prevent the industry from flooding, or targeting less affluent cities and towns with video wagering machines, as is reportedly the practice of the Massachusetts State Lottery.[24]

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[24]The advertising firm of Arnold, Fortuna, Lane responded, on March 12, 1992, to a state Lottery Request for Proposals with an Instant Games Media Recommendation targeting "media against groups profiled with a strong propensity to play Instant Games," including citizens of Suffolk and Bristol counties who have "minimal disposable income." On July 24, 1992 the firm was awarded a contract by the Lottery.

PART FOUR: CASINO GAMING

Casino gaming is popular in Massachusetts:

- in 1986, before any legalized casinos were constructed in New England, a study commissioned by the Massachusetts State Lottery showed that ten percent of the men and women in the Commonwealth had wagered on casino gaming in the past six months;[25]

- observers at the Mashantucket Pequot Indian casino in Ledyard, Connecticut have reported that between sixty and eighty percent of the cars in the facility's parking lot have Massachusetts license plates.

Casino gaming is legal in Massachusetts:

- approximately three percent (163,971) of the residents of the Commonwealth attended charitable "Las Vegas Night" promotions in 1992, generating $1.6 million for 813 organizations as diverse as the Sons of Italy, the Beth Israel Hospital, Archbishop Williams High School, the Worcester Elks Club, the Red Raiders Quarterback Club, and the Petersham Curling Club.

- the total handle for charitable casino gaming in Massachusetts in 1992 was $4.9 million. The per capita handle was $29.74. The average "Vegas Night" generated $6,000.00 in nightly wagers.

- in 1992, charitable casino gaming generated $243,000 in state taxes.

Casino gaming is the latest trend that cash starved state governments are attempting to exploit in lieu of taxes. In this case, however, state governments are one step behind some Indian tribes which have developed casinos in the wake of the Indian Gaming Act of 1988, and have subsequently generated millions of dollars in revenue for tribal councils, and members.

This section of the report presents information that the Committee gathered with respect to casino gaming, including 1) Indian gaming, 2) water-based gaming, otherwise known as riverboat or dockside gaming, and 3) land-based casino gaming.

INDIAN GAMING

Approximately 175 Indian tribes are actively involved in operating gaming facilities throughout the United States. Sixty-one of these tribes have had compacts approved by the United States Secretary of the Interior to authorize Class III gaming such as slot machines, blackjack, and off-track betting (see "Appendix A: State-Tribal Compacts for Class III Gaming").

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[25] Quantitative Research Findings: The Massachusetts State Lottery Games, WAVE II, Hill, Holliday, Connors, Cosmopulos, Inc., Advertising, HHCC Marketing research and Planning, March 1986.

According to testimony submitted to the Senate Committee on Post Audit, Indian gaming generated $720 million in 1991, which represents a two hundred percent increase over 1990 revenue. The sixteen Indian tribes operating Class III gaming facilities in the state of Minnesota compose more casinos than are currently operating in all of Atlantic City.

The move toward establishing a national policy on Indian gaming began in Florida in the late 1970's when the Seminole Tribe opened a "high stakes bingo operation" and the county sheriff threatened to arrest any patrons. The Seminole's filed a lawsuit, whereupon the federal courts ruled that the Bingo Civil Regulatory Laws of Florida had no application to the reservation or the Tribe.

Other tribes opened up similar bingo games, and other lawsuits followed, with the same result. It was established that civil regulatory laws had no authority on Indian reservations.

Due to the fact that a national gaming policy had never been established, there were no federal laws which regulated Indian gaming. Consequently, the Indian Gaming Act of 1988 was adopted which provides a broad framework for the regulation of gambling by dividing gaming into three class:

> Class I: composing traditional games, played solely for prizes of minimal value - to be exclusively regulated by the tribes;
>
> Class II: composing games of chance, such as bingo, tip jars, lotto games, and non-banking card games - to be regulated by the tribes with oversight from the National Indian Gaming Commission; and
>
> Class III: composing all other forms of gaming, including electronic gaming machines, pari-mutuel wagering, slot machines, casino gambling - to be regulated by the National Indian Gaming Commission.

Class II gaming may be conducted if 1) the state in which the tribe is located permits such gaming for any purpose, and 2) the governing body of the tribe adopts a gaming ordinance which is approved by the National Gaming Commission. States have no role in Class II gaming oversight.

Class III gaming may be conducted if 1) the state in which the tribe is located permits such gaming for any purpose; 2) the tribe has adopted an ordinance which has been approved by the National Indian Gaming Commission; and 3) the tribe and state have negotiated a compact

which has been approved by the Secretary of the Interior.

Such tribal-state compacts may include 1) the application of tribal or state criminal and civil laws relating directly to gaming; 2) the allocation of jurisdiction between the state and the tribe; 3) an assessment to the state to defray the cost of providing regulation; 4) taxation by the tribe in amounts comparable to state taxation; 5) remedies for breach of the compact; 6) standards for the operation and maintenance of the gaming facility; and 7) any other subjects related to the gaming activity.

States may not "tax" Indian gaming revenue, or demand that tribes pay state taxes, fees, or assessments or charges for offering Class III gaming. (They may, however, negotiate "agreements" with tribes, and receive payment as the result of those agreements. The Mashantucket-Pequot Indians, for example, agreed to annually pay $100 million to state of Connecticut for the exclusive right to operate slot machines. This payment would cease should Connecticut legalize state-wide video wagering.)

(The annual Foxwoods Casino payment represents approximately 15% of the casino's total gross revenue. By comparison, the combined Atlantic City casinos pay the state of New Jersey $250 million, or 8 percent of the $3.125 billion that they generate in gross revenue. Consequently, the Mashantucket-Pequot Indians will annually pay the state of Connecticut an amount equal to forty percent of what the state of New Jersey receives from twelve casinos.)

The Secretary of the Interior is authorized to approve or disapprove tribal-state compacts, and must act within forty-five days of the submission of a compact. A compact may be disapproved if it violates 1) the Indian Gaming Act; 2) any other federal law that does not relate to jurisdiction over gaming; or 3) the trust obligations of the United States of America.

States must negotiate in good faith with tribes requesting tribal-state compacts; the jurisdiction to address a state's failure to so negotiate is vested with the Federal district courts. A state must enter into negotiations with a tribe within 180 days of a tribe's request for a compact. If a state does not negotiate in good faith, a court will issue an order requiring that the state and tribe conclude a compact within sixty days.

If a state and tribe fail to conclude a compact within this sixty day window, both compacts are submitted to a mediator, who "selects" one of the documents. If the state does not, within sixty

days, consent to this document, the Secretary of the Interior may prescribe procedures consistent with the document to implement Indian gaming.

(States have recently and successfully invoked the Tenth and Eleventh Amendments to the Constitution to prevent being compelled to negotiate state-tribal compacts and to retain a measure of control over gaming within their borders.

> (Tenth Amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."
>
> (Eleventh Amendment: "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.")

Consequently, tribes have asked Congress to amend the Indian Gaming Act by expanding the definition of Class II gaming (to include, for example, electronic wagering.

The Indian Gaming Regulatory Act defines a "tribe" as having been recognized, as such, by the Secretary of the Interior. Recognition is gained either through legislation, (generally as part of a larger effort, such as the settlement of a land claim) or through the Bureau of Indian Affairs, which would establish if, in fact, a tribe has had a continuous (governmental or social) history.

There are several federally recognized tribes in and around Massachusetts: the Mashantucket Pequot Tribe of Connecticut; the Oneida Nation, and the St. Regis Mohawk Tribe of New York; the Passamaquoddy, Penobscot, and Malasee Indians of Maine; and the Wampanoag Tribe of Massachusetts. The Mashantucket Pequot Indians, and the Indians of the Oneida Nation are operating Class III gaming facilities.

On April 12, 1993 the Wampanoag Tribe of Gay Head notified the Governor of the Commonwealth that their Tribal Council had passed Tribal Resolution No. 93-12, and requested that the Commonwealth commence negotiations of a tribal-state compact for Class III gaming.[26]

The Wampanoag Indians did not outline a site for their proposed gaming facility. Their April

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[26]The tribe's notice evinced a level of political sophistication, intimating that the Governor was "aware of the nuisance a few lost souls can become with the aid of the media."

12 notice did state that their "trust lands are located in the town of Gay Head on the western tip of Martha's Vineyard." According to testimony received by the Committee, however, the Wampanoag's would not necessarily be restricted to placing a gaming facility on Gay Head.

According to testimony received by the Committee, a federally recognized tribe could site a gaming facility on land away from their reservation. This means that the Wampanoag could site a gaming facility somewhere on Cape Cod, or elsewhere in Massachusetts, if the site was acquired in trust, the trust being held by Secretary of the Interior, for the Wampanoag. The title of this land would be held by the United States.

This process does have one very important caveat. Before acquiring the land to be held in trust, the Secretary of the Interior would have to consult with the local community, and the state, and make the determination that the acquisition of the land is in the best interest of tribe, and not detrimental to the surrounding community. The governor of that state would have to concur with the secretary's determination. In the absence of such concurrence, the land acquisition for gaming purposes would be blocked.

(The St. Croix Band of the Chippewa Tribe attempted to acquire land to be held in trust in East St. Louis, Illinois so that they could construct a casino in the community. The tribe was thwarted by the state Governor whose spokesperson stated that "riverboats here have to establish a niche without any gaming competition.")

On June 30 the Governor's legal counsel responded to the Wampanoag's April 12 letter. This letter, in part, stated that the Commonwealth continues to reserve its rights

> "regarding gaming compacts, including without limitation, its rights under the Tenth and Eleventh Amendments to the United States Constitution against being sued or otherwise compelled to negotiate or sign a compact for gaming."

The letter also stated that "we are satisfied that the Governor has the authority to negotiate, but his authority to sign a binding compact with a tribe is, so far as we are aware, an unsettled question in Massachusetts."

Negotiations between the Governor's legal office and the Wampanoag Indians to develop a tribal-state Class III gaming compact commenced on September 14, 1993.

WATER-BASED CASINO GAMING

Water-based casino gaming, sometimes known as riverboat, or dockside gaming, is the latest non-tax revenue generator to sweep the nation. The water-based casino gaming industry, in 1992, generated over $400 million, and provided over $50 million in new state revenue. Projections indicate that, by 1995, water-based casino gaming could generate over $3 billion.[27]

In the four years since it was legalized in Iowa in 1989 Louisiana, Illinois, Mississippi, and Missouri have all legalized water-based casino gaming, and legislation is under consideration in thirteen other states, including Massachusetts.

The term "riverboat gaming" is a misnomer that falsely conjures up images of nineteenth century paddle-wheelers plying the Mississippi River. While some states have passed legislation allowing gambling on historic riverboat replicas, Mississippi water-based gaming is conducted on floating barges that have no crew and no engines.

Water-based casino gaming is nothing short of casino gaming. Its designation simply limits the site availability to a navigable waterway, or dock.

Water-based casino gaming regulations, and tax rates, vary greatly from state to state:

- IOWA

Examples of Regulation

-boats must be built to historic standards, of which no more than thirty percent of the total area is devoted to gaming;

-each vessel must have a 500 passenger capacity and cruise for at least three hours;

-no wager may exceed $5, no passenger may lose more than $200 per trip;

Tax Rate

-sliding scale, up to 20 percent of adjusted (post-prize) gross revenue;

- ILLINOIS

Examples of Regulation

-maximum of ten water-based gaming licenses available in state;

-no maximum wager or loss limit;

Tax Rate

-20 percent of adjusted gross revenue;

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[27]The background information in this section is based upon the May 20 testimony of Andrew Tottenham, managing director of Tottenham and Associates, international gaming consultants.

•LOUISIANA
Examples of Regulation
-maximum of 15 water-based gaming licenses available in state;
-cruise must be more than three but less than eight hours long;
-no more than sixty percent of total area, or 30,000 square feet, devoted to gaming;
-no maximum wager or loss limit;
Tax Rate
-15 percent of adjusted gross revenue;

•MISSOURI
Examples of Regulation
-boats must leave dock from April through October (except in St. Louis);
-no maximum wager limit;
-maximum loss limit of $500 per passenger per trip.
Tax Rate
-sliding scale of up to 20 percent of adjusted gross revenue.

Testimony submitted to the Committee indicated that tax rates fluctuate based upon the number of riverboat licenses that a state allows. A monopoly establishment would command a high tax rate, upwards of twenty percent, whereas a competitive market (multiple licensees within a limited geographic area (i.e. the same county, the same harbor)) a would carry a lower rate, as low as ten percent.

Contrary to popular belief, water-based casino gaming is not conducive to single-handedly attracting tourism. Patrons typically live within 125 miles of the facility site. As such, a water-based casino gaming facility that is located far from a state's borders should not be expected to produce a substantial amount of "out-of-state" revenue. In fact, in many cases, dollars spent by tourists on water-based casino gaming are dollars that are diverted from other activities, and would have otherwise been spent in the establishment's absence.

Water-based casino patrons typically wager a relatively modest amount of revenue on each gaming excursion (see **Chart Thirteen: Water-Based Gaming Statistics**). Data indicate that from April through September 1991 the average patron of riverboat gaming in Iowa and Illinois spent slightly more than $38 per trip.

The low per capita adjusted handle figures may be related to the gaming venues which are available on most vessels. Water-based casino operations in Iowa, Illinois, and Mississippi have between 250 and 1,500 gaming positions. (A slot machine would equal one gaming position, a

CHART THIRTEEN
WATER-BASED GAMING STATISTICS

Boat	Port	Casino Sq. Ft.	Gaming Positions	Slots	Patrons per Month	Per Cap. Gross
President	Davenport,IA	27,000	915	699	94,000	$30
Casino Belle	Dubuque,IA	20,000	810	700	51,000	$32
Diamond Lady*	Bettendorf,IA	10,000	315	250	36,000	$24
Emerald Lady*	Madison,IA	10,000	315	250	31,000	$20
MS. Belle II	Clinton,IA	9,000	250	220	17,000	$29
Alton Belle	Alton, IL	6,200	400	295	66,000	$58
Par-A-Dice	Peoria, IL	12,500	678	478	90,000	$50
Rock Island	Rock Island,IL	8,100	488	373	57,000	$38
Empress	Joliet,IL	19,000	837	607	163,000	$71
Silver Eagle	Galena,IL	9,250	585	470	84,000	$33

**moved to Mississippi 7/92*

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blackjack table would compose five gaming positions.) The average vessel in these three states had 725 gaming positions; approximately eighty-one percent of the gaming positions on Iowa riverboat vessels composed slot machines; as did seventy-six percent of the positions in Mississippi; and seventy four percent of the gaming positions in Illinois.

Slot machines make up the largest percentage of gaming positions in both water and land-based casinos. According to testimony, slot machines are viewed by casino customers as having a high "perception of value." This perception is driven by 1) a physical coin drop, which presents tangible evidence of a players success, and 2) the pre-determined percentage prize payout applicable to slot machines.

Slot machines pay out the highest percentage prize payout of any form of gaming in the country, with the sole exception of Las Vegas sports book-making (see **Chart Fourteen: Typical Gaming Odds By Type**). Most slot machines pay out between eighty-eight and ninety-two percent of all monies paid into the machines.

State lotteries, on the other hand, pay out the lowest percentage of monies wagered. They were described to the Committee as being "the worst form of gaming for the consumer."

Testimony indicated that the majority of patrons prefer slot machines to the more expensive (and more difficult to beat) table games.

CHART FOURTEEN
TYPICAL GAMING ODDS

	PRIZE PAYOUT RATE
Nevada Sports Books	97%
"Atlantic City" Slots	85–90%
Video Blackjack	93%
Video Poker	92%
Progressive Slots	88%
Craps Table	85%
Baccarat Table	85%
Nevada Race Books	85%
Video Wagering Machines	80–85%
Blackjack Table	84%
Jai Alai	80%
Pari-Mutuel Racing	79%
Charitable Gaming	75–85%
Roulette Table	75%
State Lottery	50%

Source: "1991 Compendium of Lottery Statistics"
TLF Publications, Inc.
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- Slot machines in Nevada and New Jersey generate 60% of casino revenue.
- The 1991 slot machine handle from Nevada and New Jersey increased by 10.8 percent, while the adjusted gross table game handle decreased by 7.46 percent.
- The 1992 Las Vegas slot coin adjusted handle increased by 8.5 percent, while the adjusted gross table game handle decreased by 7.7 percent.

The success of slot machines over table games may be due to player demographics, younger players feeling more comfortable with slot machines than with the slower, more complicated table games. The average craps player in Atlantic City in 1980 was over 55 years of age. Today that cadre of players would either be retired from gaming, or operating with a substantially reduced bankroll. Like the pari-mutuel audience, the table game clientele may gradually be retiring from active play.

Table games typically have a much lower "player win rate" than slot machines; Iowa riverboat table games list "win rate" percentages of between 21.99 percent and 40.92 percent (as compared to the slot machine win rates of 88.15 percent to 91.61 percent).

However, casino owners rely on table games to set the atmosphere. According to industry experts, video wagering machines in non-casino settings (such as pari-mutuel facilities) generally under-perform casino-based slot machines. This is partially due to the video

machines lack of a tangible coin drop, but also to the absence of table games, which "define the gaming atmosphere" and stimulate the behavior within a facility. A player is more inclined to play a machine, and stay at that machine if he or she is simultaneously exposed to table games, than to another, non-casino atmosphere.

For example, video wagering terminals generated approximately $57 per machine, per day in Louisiana; $34 per machine per day in Montana; and $30 per day in Rhode Island while slot machines in the Colorado towns of Cripple Creek, Central City, and Black Hawk generated approximately $77.48 per machine per day in adjusted gross profits. (Concurrently, Colorado table games, each composing four or more gaming positions, generated an average daily adjusted gross profit of $258. The annual adjusted gross slot machine profit composed ninety percent of the state's overall adjusted gross profit for the year.)

Water-Based Casino Employment

Slot machines (and video wagering machines) are low maintenance gaming tools. Consequently, water-based gaming facilities employ a relatively small number of persons in comparison to their land-based counterparts. Both water and land-based casinos dedicate approximately the same percentage of their floor space to table games. Land-based casinos are, however, much larger than water-based facilities. A 60,000 square foot land-based casino will be able to employ many more table game employees than an 8,100 square foot water-based casino.

Testimony submitted to the Committee indicated that a riverboat gaming facility could produce anywhere from 1,000 - 3,000 direct jobs, (paying between $20,000-$30,000 per year, including benefits) and an equal number of in-direct jobs.

- The seven riverboat operations in Illinois have generated approximately 5,000 jobs. *According to the state of Illinois, riverboat gaming was responsible for twenty percent of the jobs that were created in the state during the year ending September 1992.*

- The six Iowa riverboat sites in 1991 employed a total of 3,355 persons. The Davenport facility was responsible for creating 1,200 jobs.

- Four riverboat facilities in New Orleans are expected to generate 20,000 jobs, and $225 million in money to the state and local economy.[28]

- The two Kansas City riverboat gaming facilities are expected to create 3,000 jobs.

The state of Illinois has sanctioned fourteen water-based gaming licenses. Consequently, these

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[28]Pearson, Larry, "Trendline: Riverboats", International Gaming and Wagering Business, March 15, 1992, page 67.

license-holders compete for the same employment base. Testimony indicated that some Illinois facilities have employee turnover rates that exceed sixty percent. This is not the result of employees leaving the water-based gaming industry, rather of employees leaving one facility for higher wages at a competitors facility. This condition would be tempered by having a controlled and reduced number of gaming licenses available, and mandating minimum pay requirements.

Water-Based Casino Revenue

In order to gauge the revenue generating potential of water-based gaming, the Committee reviewed the experience of boats operating in Iowa, and Illinois (**see Chart Fifteen: Riverboat Gaming Revenue**).

Each state, during the period of time surveyed, listed six vessels in operation as gaming facilities. The Illinois vessels offered a combined 1,273 days of gaming, while the Iowa vessels offered a combined 3,163 days of gaming. Regulations required that boats from each state leave the dock during periods of gaming. Illinois excursions lasted between 2.5 to three hours; Iowa excursions lasted between 2.5 to five hours.

Illinois facilities attracted approximately 3,500 persons per day, who lost an average $57.83 per trip. (The gross adjusted handle is often called the "drop", meaning what the player leaves behind.) Iowa facilities attracted 1,600 persons per day, who lost, or "dropped" an average $31.17 per trip.

Each water-based gaming facility in Illinois generated the following gross adjusted handle:

daily handle:	$208,068
weekly handle:	$1,456,478
annual handle:	$75,736,856.

Each water-based gaming facility in Iowa generated the following gross adjusted handle:

daily handle:	$51,617
weekly handle:	$361,319
annual handle:	$18,788,588.

Data indicate that each of the six Illinois riverboat gaming facilities generated an average $11.9 million in state tax revenue and an average $4.8 million in local tax revenue, while each of the five Iowa riverboat gaming facilities generated an average $4.8 million in state tax

revenue and $300,000 in local tax revenue.[29]

CHART FIFTEEN
RIVERBOAT GAMING REVENUE

IOWA

Vessels	5
Daily Cruises Per Vessel	6
Patrons Per Cruise	276
Per Capita "Handle Drop"	$31.17
Patrons Per Vessel Per Day	1656
Handle Drop Per Cruise	$8,602.92
Daily Vessel Handle Drop	$51,617.52
Weekly Vessel Handle Drop	$361,322.64
Annual Vessel Handle Drop	$18,788,777.28

ILLINOIS

Vessels	5
Daily Cruises Per Vessel	5.9
Patrons Per Cruise	609
Per Capita "Handle Drop"	$57.83
Patrons Per Vessel Per Day	3593.1
Handle Drop Per Cruise	$35,218.47
Daily Vessel Handle Drop	$207,788.97
Weekly Vessel Handle Drop	$1,454,522.81
Annual Vessel Handle Drop	$75,635,186.17

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[29]The data available from the states of Illinois and Iowa allowed the most comprehensive analysis of revenue production. Mississippi provided the Committee with aggregate data showing that $503 million was generated in adjusted gross revenue (the "drop"). According to the Mississippi Miscellaneous Tax Commission, the state retained eight percent of the drop, or $40 million.

LAND-BASED CASINO GAMING

Although only legal in eight states, casino gaming generated over $236 billion in (non-charitable) wagers during 1991. This represents more than eighty percent of all monies legally wagered (pari-mutuel, lottery, bingo, and charitable games) within the United States during this period.[30]

Four states allow land-based casino gaming: Nevada, New Jersey, Colorado, and South Dakota. Other states, such West Virginia, and Rhode Island, legalized everything except the term "casino gaming" by sanctioning video wagering. Video poker is essentially a ticket-dispensing slot-machine. Pari-mutuel facilities that offer legalized gaming on 1,000 video wagering machines, keno, the state lottery, a twelve event racing card, and serve alcohol are only one blackjack table game away from becoming a full-blown land-based casino.

Casino gaming has become an accepted segment of the entertainment industry. Investors have flocked to gaming company stocks, twenty of which have averaged forty percent growth in the past twelve months; seven of which have increased by over one-hundred percent since 1991:

- Casinos Magic Corp, +675 percent
- President Riverboat, +208 percent
- Promus Cos Inc., +154 percent
- Boomtown, Inc, +143 percent
- Rio Hotel and Casino, + 127 percent
- International Gaming Technology, +106 percent
- GTech, +105 percent.

According to the Wall Street Journal, United States casino stocks increased more, from January through August, 1993, than any industry group, with the sole exception of oil drilling company stocks.[31]

Overall gaming revenue has increased as families have increased their entertainment spending. (Families now spend more on entertainment than on clothing; family spending on entertainment now ranks behind only shelter and food.) Over 22 million households in 1992 made a combined

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[30]By 1992 nine states offered some form of legalized (non-Indian, non-charitable) casino gaming: Nevada, New Jersey, Mississippi, South Dakota, Illinois, Iowa, Colorado, Missouri, and Louisiana.

[31]The Wall Street Journal, "Dow Jones World Industry Groups, Industry Group Performance", August 30, 1993, page C9.

64.5 million trips to casinos, twenty percent more trips than were made in 1991.[32]

As such, land-based casinos have had to adjust their focus to attract the increased entertainment dollars. Las Vegas has positioned itself as a "destination city" where tourists and conventioneers go to spend a substantial period of time. The average visitor to Las Vegas spends between 3.5 and four days in the city. Consequently, facilities must offer more than gaming to occupy and sustain a visitor's stay.

Las Vegas casinos, therefore, are using gaming as only one component of what the industry calls the "total entertainment experience."

- Circus Circus Enterprises Inc. is completing "Luxor", a $300 million pyramid-shaped casino-hotel that will have 2,500 rooms, 90,000 square feet of casino space, and non-such gaming attractions such as "participatory high-impact adventures involving cutting-edge movie technology", and a replica of King Tut's tomb, a Nile River ride, and the Hanging Gardens of Babylon at the facility's front entrance.

- Mirage Resorts, Inc. has begun construction of "Treasure Island at The Mirage", a $450 million, 3,000 room hotel-casino that will have "hourly battles full of explosions and cannon shots during which a pirate ship sinks a British frigate."

- A spokesperson for Circus Circus stated that "the total effect of the work now in progress in Las Vegas will be to reinforce the reputation of the area as not merely a place to gamble, but as a total destination for the entire family, competing with cities such as Orlando."[33]

This "total entertainment experience" philosophy is being adopted by some of the newer entrants into the gaming industry, such as the Puyallup tribe of Washington State who are planning a "detailed entertainment resort" with a horse track, golf course, restaurant, hotel, and shopping mall. The tribe's Counsel stated that "the gaming hall is only part of the venture."

Atlantic City is a destination city with a decidedly different approach, dictated by its customer base which visit the city for periods of approximately eight hours. This reduced exposure necessitates that Atlantic City accentuate gaming, and minimize the ancillary "throughputs" (entertainment, retail sales, food) that Las Vegas facilities maximize.

Water-based gaming facilities tend to operate along the lines of Atlantic City casinos,

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[32]Testimony submitted to Committee by Illinois Gaming Board.

[33]Gaming and Wagering Business, June 15-July 14, 1992, page 11.

emphasizing gaming at the expense of non-gaming throughputs. The typical patron lives within 125 miles of the facility and spends less than $40 per cruise. Consequently, facilities must cultivate a loyal clientele and are dependent on return business.

State and local governments have recently recognized casino gaming as a source of the "real" gaming revenue. Casino gaming would provide state and local revenue made up of a gaming taxes, sales taxes, food and beverage taxes, income taxes, and property taxes. The tax structure applicable to land-based casinos would roughly follow that of water-based casino operations. Monopoly license-holders would be taxed at higher rates than competitive license-holders (twenty percent versus eight to ten percent). Estimated gross adjusted wager projections of single market facilities generating $400 million to $500 million would raise between $80 million and $100 million in new state revenue.

The city of New Orleans has recently accepted a proposal to design and develop a land-based casino at its Rivergate Convention Hall. The proposal indicated that the state would receive an initial payment of $38 million, then lease payments composing three to five percent of the casino's gross, and an additional five percent of the casino's net profit. Reports indicate that one land-based casino in New Orleans would provide the state of Louisiana with annual tax payments of $100 million.

A land-based casino is also expected to provide New Orleans with a source of economic development. The New Orleans mayor's office estimated that a land-based casino would generate $3.6 billion in creased visitor and secondary spending, and create approximately 66,000 direct jobs.

Casino gaming has been credited with improving the economy of Deadwood, South Dakota, creating over 1,200 jobs, generating $5 million for the local economy, and produced $5.4 million in state revenue (eight percent of the gross adjusted revenue figure of $67.5 million).

Deadwood, SD casinos are relatively small facilities. Over seventy-nine establishments have gaming devices casinos, ranging from "Midnight Star", with 36 gaming devices; to "Green Door Club", with 24 devices; to "Butch Cassidy", with one device. The proliferation of casino gaming in this small town has caused a levelling of casino revenue. In fact, although casino gaming grossed over $2.8 million per month in 1990, $3.7 million per month in 1991, and $3.2 million per month in 1992, sixty percent of the casinos in Deadwood, SD are now unprofitable, and

another 20% are only marginally profitable.

Some of the deadwood establishments stretch the application of the term "casino" and are obviously augmenting their true business revenue flow. For example, "The Goldberg Soda" casino has 23 devices; the "Rocky Mountain Taffy" casino has 32 devices; and the "Twin City Cleaners" casino has seven gaming devices.

The experience of Deadwood, SD notwithstanding, testimony before the committee indicated that a land-based casino requires a population support base of approximately one million persons. One former Atlantic City casino marketing expert stated that a land-based casino would typically draw from a geographic radius of between 300 to 500 miles.

The success of Foxwoods Casino at Ledyard, CT is partially credited to the fact that twenty-five million people live within 125 miles of the casino in the states of New York, Connecticut, Rhode Island, and Massachusetts. The facility is 1.5 hours from Boston, forty minutes from Providence, RI; and 1.5 hours from Long Island (which is five hours by car from Atlantic City).

PART FIVE: EXPANDING GAMING IN MASSACHUSETTS

Prior to any expansion of gaming, the Committee recommends that a state Gaming Commission should be established. The Commission's first responsibility should be to develop a statewide gaming policy, including whether the Commonwealth should maximize gaming revenues or simply use those revenues as a supplement to the state's revenue stream. (The Senate Committee on Post Audit and Oversight will release Toward Gaming Regulation, a full report on a state Gaming Commission in the near future.)

The decision to maintain, expand, or reduce the state's gaming mix would depend upon the overall policy that a Gaming Commission developed. Gaming policy, however, should be structured around the issue of gaming, and not be linked to non-gaming policy initiatives. Expansion should be judged on the industry's capabilities as an employer, a revenue producer, and as an engine of economic development.

For example, the Commonwealth should not legalize and implement casino gaming in order to raise revenue for any of the specific problems currently facing the state, either to provide water-resource relief for the residents of metropolitan Boston, or to fund a "Mega-Plex." Casino revenue can certainly be ear-marked for direct purposes. The decision to spend casino revenue, however, should not pre-date the decision to legalize casino gaming, lest it become a major premise to a circular argument, (such as funding a convention center with hotel room taxes from visitors to the convention center).

Water-based gaming has been linked to 1) providing revenue to subsidize Massachusetts Water Resource Authority rates, and 2) providing revenue to fund construction and operation of a "Mega-Plex".[34] The decision to implement water-based gaming, or support construction of a Mega-Plex, should not influence the decision to support or implement the other. One policy decision should not be held hostage to another.

The state must be able to implement, or cancel a program on that program's merits. Legalizing water-based gaming on the condition that it generate revenue for a capital project will hinder the state's ability to rescind the policy, should it so choose, in the future.

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[34]Allen, Scott. "Casino idea floated for harbor cleanup", Boston Globe, May 19, 1993. Connolly, Robert. "Struggle over domed stadium", The Boston Herald, Wednesday, July 21, 1993, page 22.

If the Commonwealth decides to legalize casino gaming, the decision must be made as to which role casino gaming will occupy in the state's revenue mix: supplemental, or maximization.

The gaming industry has yet to identify the point whereby gaming implementation becomes gaming saturation; at what point a community has "too many venue choices"; at what point is gaming selection becomes counter-productive. The Committee, however, recommends that the Commonwealth exercise moderation and care when entering the gaming marketplace.

Casino gaming, like any other consumer oriented industry, is governed by market forces, which regulation and external controls can either facilitate or dampen. If the state allows too many gaming operations within a single market, a quick burst of revenue may be generated, however this revenue would be difficult, if not impossible, to sustain.

Attaining revenue maximization while preserving limited gaming presents a twin mandate that precludes letting market forces dictate venue availability. Pure market forces would probably deem the Lottery (which returns sixty percent to players in prize monies) inferior to video wagering machines (which return ninety-two percent to players in prize monies). The state, however, receives thirty percent of Lottery sales, yet would receive only 2.5 percent of video wagering revenue.

The Commonwealth has already positioned, and established itself as the primary gaming interest in the state. Changing this order would reduce the amount of revenue that the Lottery generates. Market forces would undoubtedly derail the state Lottery, and a good portion of local aid. Consequently, any expansion of gaming would have to complement the Massachusetts State Lottery and preserve the state's gaming revenue stream.

Revenue maximization would come, therefore, <u>at the expense of the consumer</u>. The state would have to insure that gaming venues were added which protected, and did not supplant, Lottery revenue. A Gaming Commission would best coordinate a state-wide gaming policy. This Commission should combine the research capabilities of all facets of gaming within the state. The responsibility to develop, and coordinate, all forms of gaming would fall on the shoulders of the Commission, whose primary responsibility would be to insure that skilled gaming venues do not encroach upon the unskilled gaming revenue stream.

The expansion of gaming in the Commonwealth should follow a previously determined strategy

that was directed at retaining, or obtaining, revenue that is being exported from Massachusetts. Gaming expansion should be targeted at sites which would impact established, and soon-to-be established gaming centers.

The Foxwoods High Stakes Bingo & Casino at Ledyard, Connecticut, which is operated by the Mashantucket Pequot Indians, is an established gaming center that the Commonwealth could target as part of its gaming strategy.

The Foxwoods Casino is approximately 139,000 square feet large, which is roughly 20,000 feet larger than the Taj Mahal Casino in Atlantic City.

Foxwoods Casino opened in February 1992, and is now one of "the country's most profitable gambling operations."[35] The casino has 3,194 slot machines and, according to Roffman-Miller Associates of Philadelphia, the casino's gross handle now exceeds $50 million per month.

Observers have estimated that between sixty to eighty percent of the cars in the casino's parking lot bear Massachusetts license plates. As such, substantial revenue is being exported from Massachusetts to the Foxwoods Casino. A Massachusetts-based casino gaming facility that reduced this export would generate new revenue for the Commonwealth.

The Committee recognizes that developing a casino gaming facility along the Massachusetts border would divert revenue from the state's Lottery. Research by the Committee appears to establish, however, that the Connecticut-based Foxwoods Casino has diverted revenue from the Massachusetts Lottery.

The Committee reviewed lottery sales made in Springfield, Northampton, Holyoke, and Agawam from 1986 through 1992 and found that sales increased steadily from 1986 through 1992. After the Foxwoods Casino was opened in february 1992, however, gross sales declined in Springfield, Agawam, and Holyoke, and only marginally increased in Northampton.

The development of a casino in Massachusetts may negatively impact the state's Lottery sales. However, the Committee also believes that any subsequent declines in Lottery sales would be more than offset by casino gaming tax revenue.

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[35]Associated Press, "Foxwoods casino about to become largest", Cape Cod Times, September 3, 1993.

Providence, Rhode Island is a soon-to-be established gaming center that the Commonwealth could target as part of its gaming strategy.

According to industry representatives and investors, this city has been targeted by developers as the site of a land-based casino which would draw its base clientele from the population bases of greater Providence and Southeastern Massachusetts. Although opposed by the Rhode Island Governor and state Treasurer, the move toward legalizing casino is being driven by the Narragansett Indian Tribe, located in the southern part of the state, who want to develop a casino in Charlestown, RI (which, under the Indian Gaming Act of 1988, would generate no revenue for the state).

A casino that was constructed in Rhode Island would have a negative impact on the Massachusetts State Lottery.

An Impact of Expanded Gaming

Care must be taken when crafting any legislation that expands gaming to offset the unintended consequences that the policy may incur. According to independent research conducted by Robert Goodman of Hampshire College, any increase in gaming is generally accompanied by a subsequent decrease in other, non-gaming entertainment spending.

Goodman found that any increase in regional gaming spending leads to a concomitant eight percent decrease in other entertainment spending. For example, a new venue that attracts $100 million in new gaming revenue will result in an $8 million decrease in regional restaurant, theater, and sporting event patronage.

Goodman's research was borne out by the experience of the Minnesota restaurant, lodging, and resort industry. According to industry trade associations entertainment spending in Minnesota has declined in the state since the introduction of Indian gaming, in some restaurants by as much as fifty percent.

Any gaming expansion, therefore, should be implemented in a manner that will least impair the operations of existing venues. Policy decisions can be crafted that would mitigate the negative impacts of expanded gaming. The consortium behind the proposed land-based casino in Chicago offered to subsidize the regional pari-mutuel industry for any losses that may result from casino gaming. Reduced regional entertainment spending could be bolstered through the well-directed spending of a portion of the new revenue in economic development issues, coordinated through a consortium of local entertainment industry principals. These funds would be provided from revenue generated from the new venue.

Barring any action by the Commonwealth to expand gaming in Massachusetts, the introduction of casino gaming by the Wampanoag Indians of Gay Head remains a very real possibility.

The Wampanoags can

- construct a land-based casino on Gay Head, and concentrate upon bringing patrons to the facility;
- construct a water-based facility using Martha's Vineyard as its home port, and concentrate on bringing the facility to the patrons;
- or attempt to acquire lands in trust, and construct a land-based casino somewhere on the Massachusetts mainland.

Massachusetts would realize slight benefits to the development of an Indian gaming casino. The Mashantucket Pequot casino in Ledyard, Connecticut employs 6,500 workers (including 1,000 employees recently hired as the result of the casino's expansion). If estimates of other tribal casinos are applied to Ledyard, as many as 4,600 of the facility's employees may be non-Indians from the greater Ledyard community.

Additionally, the state of Connecticut receives $2.58 million annually from the Mashantucket-Pequot Indians in exchange for regulatory services, including $1.8 million for State Police services, $418,000 for reimbursement costs incurred by the state's Division of Special Revenue, and $344,000 for reimbursement costs incurred by the state's Department of Liquor Control. Connecticut does not, however, receive gaming licensing fees from the Mashantucket Pequots, or any portion of the casino's adjusted gross gaming handle (barring the individually negotiated annual payment for exclusive "slot machine rights" (see page 50). This payment is not, however, contingent upon the gross revenue generated by those machines.).

If the Commonwealth decides to maximize its production of gaming revenue, *the Committee recommends that it sanction the legalization of four casino gaming licenses: one for a land-based casino gaming facility, and three for water-based facilities.* These licenses would provide a level of steady, yet sustainable revenue. Gaming is one business where it may be better to have too few, rather than too many, available positions.

Four gaming licenses would allow the Commonwealth to enter the revenue intensive market of casino gaming, allowing the state to maximize its gaming revenues, while maintaining its philosophy of "limited gaming".

Restricting land-based casino gaming to one facility would create a monopoly, which could be assessed a fairly high tax rate, upwards of twenty percent, against all adjusted gross revenue. Industry spokesmen estimated that a Massachusetts land-based casino could generate between $350 and $500 million per year. This would provide the Commonwealth with between $70 million and $100 million in gaming tax revenue. Revenue would also be generated from license applications, license fee's, sales taxes, and food and beverage taxes.

Industry experts testified that, in order to be successful, land-based casinos require a population support base of approximately one million persons. As such, a land-based casino could theoretically anywhere east of Springfield. Any land-based casino in Massachusetts would draw a substantial segment of the traffic which currently flows to Foxwoods Casino in Ledyard, Connecticut.

A land-based casino would attract patrons from a fairly wide radius. The in-state population support base for such a facility would equal, therefore:

- 1.4 million persons in Western Massachusetts;
- 2.5 million persons in Northeastern Massachusetts;
- three million persons in Southeastern Massachusetts.[36]

The decision to construct a land, water, or dockside-based casino gaming facility should be made, in part on a region's receptivity. Obviously, the decision to issue a limited number of casino licenses increases the inherent value of each franchise. This, however, affords the Commonwealth, and prospective host communities, leverage over what kind of investment will accompany the development of the casino property itself.

The Committee believes that casino gaming operations must include the development of complementing retail, recreational, and entertainment facilities. These facilities should be designed to ensure not only the long-term profitability of the gaming enterprise, but to improve the site's attractiveness and the economic status of the host community.

A casino should be used as an economic engine to drive the creation of a number of compatible enterprises; applicants for the limited number of franchises should be required to demonstrate that they can, and will contribute to the total package.

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[36]Population figures from the Massachusetts Institute of Social and Economic Research.

A representative of Circus Circus Enterprises, Inc. submitted testimony indicating that, in order to be viewed favorably as a site for a land-based casino, a community should be able to offer itself as containing a decent, prospective work-force; allow real property space for expansion; be located away from competing forms of gaming; be situated close to a leisure-bound traffic flow; be willing to suspend or grant a waiver of existing blue laws; and have a population support base of approximately one million persons.

A site should also have access to adequate, multi-traffic venues, and be able to target a wide market. For example, a waterfront location in a border community would allow a facility to target residents of two or more states, and transport customers to that facility via traditional surface transportation or a water-shuttle.

Limiting the number of available gaming licenses would allow the Commonwealth to maximize gaming revenue while avoiding market saturation. *The Committee recommends that one casino gaming facility be located in Western Massachusetts, one in Southeastern Massachusetts, one in Northeastern Massachusetts, and one in the city of Boston.*

Each casino gaming facility site would serve specific policy purposes:

Southeastern Massachusetts (Bristol County)
1) block the development of a competing casino in Providence, RI;
2) import Rhode Island residents, and revenue;
3) act as economic development engine for region;

Western Massachusetts (Hampden County)
1) deter Massachusetts residents from Foxwoods Casino in Ledyard, CT;
2) import Connecticut residents, and revenue;
3) act as economic development engine for region;

Northeastern Massachusetts (Essex County)
1) deter the development of a competing casino in lower New Hampshire or Maine;
2) import New Hampshire and Maine residents, and revenue;

city of Boston (Suffolk County)
1) accent city's marketability for convention traveller;
2) act as economic development engine for region.

Locating casino gaming facilities in Bristol, Hampden, and Essex counties would complement the Massachusetts gaming revenue stream. Each facility would attract out-of-state players, thereby importing revenue into the state's gaming revenue stream (versus the revenue exporting

that is currently occurring in Ledyard, CT).

Casino gaming facilities in these three counties may negatively impact the Massachusetts State Lottery sales (these counties contain 27 percent of the states population, who make 29 percent of the state's lottery bets). The Committee believes, however, that these loses would also occur if neighboring states construct casino gaming facilities.

Casino gaming facilities in Bristol, Hampden, and Essex counties may also impact the state's pari-mutuel facilities. If the decision is made to legalize casino gaming, therefore, the state must make any site and regulatory decisions based upon that impact. The industry has proposed solutions to its impact on the pari-mutuel industry (see below).

A Suffolk County casino gaming facility would cater to the state's population center, and be useful as an adjunct marketing tool for the city's burgeoning convention center trade. Boston is accessible to a commuting clientele, and boasts a working waterfront.

The city has several logistical drawbacks to its being chosen as a site for a casino gaming facility (land is expensive, the harbor is crowded, no late-night public transportation, parking is difficult).

However, the major drawback to placing a casino gaming facility in Boston is that it would supplant, and not complement, the Commonwealth's existing gaming stream. The major competition to a Boston-based casino gaming facility would come from legalized gaming within Massachusetts.

Data indicate that fourteen percent of the state's Lottery sales are made within the city of Boston. A city-based casino operation would undoubtedly impact Boston-based Lottery sales.

A Boston-based casino would directly compete with two of the state's four pari-mutuel racing facilities: Suffolk Downs, and Wonderland Greyhound Track. Each track has undergone revenue problems in the recent past: Wonderland has experienced two consecutive years of declining handle and attendance figures; Suffolk Downs is in its second year of operations following a two year period when no racing was conducted.

The experience of casinos and pari-mutuel facilities in other states indicate that a Boston-based

casino could prove disabling to both Suffolk Downs and Wonderland Park. When casinos or Indian reservation gaming have been developed *near* existing pari-mutuel facilities, tracks have closed, or suffered financial hardship. According to International Gaming and Wagering Business magazine, gross handles at pari-mutuel facilities *in direct competition* with casinos or riverboat operations have fallen from "30 percent to 50 percent in months."

The Chicago pari-mutuel industry opposed the land-based casino that was proposed for that city; industry studies indicated that a land-based casino in Chicago could cause the city's tracks to lose as much as thirty percent of their business.

The New York state pari-mutuel industry has expressed concern that the Oneida Indian Nation's newly opened, 68,000 square foot casino in Verona will impact the racing handle. The Oneida casino will offer twenty-six different games, with twenty-four hour a day, seven day a week availability. "There are only so many discretionary dollars available for gaming," said the vice-president of the New York Racing Association. "The money spent at Indian casinos will come from money otherwise spent at race tracks, off-track betting parlors, or the state lottery."[37]

Casino gaming facilities must be placed therefore, in a manner that will 1) best expand the state's gaming revenue stream while, 2) protecting the states current gaming revenue stream.

Each facility should be assessed tax rates of between 15-20 percent, and regulated with maximum wager, prize, and loss limits. Enabling legislation should carry a sunset provision which mandates legislative review and re-approval three years after implementation.

To avoid market saturation, and to insure that licenses are awarded in the public interest and in accordance with the desires of the host communities, the process of siting and awarding the state's four gaming licenses should be as follows:

1) A state gaming commission should recommend a site for a particular venue (i.e. water-based casino gaming, land-based casino gaming, or off-track betting).

(Recommendations should be based upon definable criteria, such as: a) the site's ability to attract out-of-state patrons, b) the site's potential for job creation, c)

---

[37]Wolff, Maury, "Marketing is most important leg in survival race," Gaming and Wagering Business, December 15, 1992, page 11.

the site's potential as an engine of regional economic development, d) the site's ability to minimally impact the state's current gaming revenue stream.)

2) The recommendation of the state gaming commission should be placed before the local community in a special election.

3) If approved by the local community, the state legislature should vote to approve the measure as a local option.

4) If approved by the state legislature, the gaming license should be placed out to bid according to a process developed and approved by the state's purchasing agent and the state's gaming commission.

Bid requirements should include that the successful bidder develop specific capital improvements to the host community, improvements that are unrelated to the gaming site, per se.

The first license award should be made for a water-based facility, as this venue can be developed in the most expeditious manner. *The Committee recommends that water-based gaming be a combination of riverboat and dockside gaming, operating as a riverboat facility (away from the dock) from May through September, and as a dockside facility from October through April, and during inclement weather.*

The second, and each successive, license should be brought on line pending market analyses.

Oversight and regulation should be provided by an agency with experience in skilled gaming oversight and regulation. *The Committee recommends that the mission and authority of the state's Racing Commission be expanded, and that it become the state's Gaming and Racing Commission.*

PART SIX: ANTICIPATED REVENUE PRODUCTION

- Legalize off-track betting:
  - eight facilities;
  - $120 million in gross revenue;
  - $1.8 million to state.

- Implement limited Keno:
  - 100 locations;
  - $16 million in gross revenue;
  - $4.8 million to state.

- Legalize limited video wagering:
  - 6,000 machines: 1,500 at each pari-mutuel facility
    - max. wager and prize cap.
  - $234 million - $312 million in gross sales revenue;
  - $52.6 million - $70 million to state.

- Legalize water-based casino gaming in strategically located communities:
  - three locations
  - $105 million to $115 million in gross revenue
  - $21 million to $25 million in state revenue.

- Legalize one land-based casino in strategically located border community:
  - one location
  - $500 million to $600 million gross revenue
  - $100 million to $120 million in state revenue.

APPENDIX A: STATE-TRIBAL COMPACTS FOR CLASS III GAMING APPROVED BY THE UNITED STATES SECRETARY OF INTERIOR

CALIFORNIA
Barona Group of the Capitan Grande Band of Mission Indians
Cabazon Band of Mission Indians
San Manuel Band of Mission Indians
Sycuan Band of Mission Indians
Viejas Band of Mission Indians
Fort Mojave Tribe of Needles
CONNECTICUT
Mashantucket Pequot Tribe
IOWA
Omaha Tribe of Nebraska
Sovereign Nation of the Sac and Fox Tribe of the Mississippi in Iowa
Winnebago Tribe of Nebraska
MINNESOTA
Bois Fort Band of Lake Superior Chippewa Reservation
Bois Fort Band of Chippewa
Fond Du Lac Band of Lake Superior Chippewa Reservation
Grand Portage Band of Lake Superior Chippewa Reservation
Grand Portage Band of Chippewa
Leech Lake Band of Chippewa Indians
Lower Sioux Indian Community
Lower Sioux Community Reservation
Mille Lacs Band of Chippewa Indians
Nett Lake Reservation Tribe
Prairie Island Sioux Community Reservation
Prairie Island Indian Community
Red Lake Band of Chippewa
Shakopee Mdewakanton Sioux Community Reservation
Upper Sioux Indian Community
White Earth Band of Chippewa
NEBRASKA
Omaha Tribe of Nebraska
NEVADA
Fort Mojave Tribe
NEW YORK
Oneida Nation of New York
SOUTH DAKOTA
Crow Creek Sioux Tribe
Flandreau Santee Sioux Tribe
Lower Brule Sioux Tribe
Sisseton-Wahpeton Sioux Tribe
Yankton Sioux Tribe
WASHINGTON
Nooksack Indian Tribe of Washington
Tualip Tribes of Washington
WISCONSIN
Bad River Band of Lake Superior Chippewa
Lac Courte Orielles Band of Lake Superior Chippewa Indians
Mole Lake Band of Chippewa
Oneida Tribe of Indians of Wisconsin
Red Cliff Band of Lake Superior Chippewa
Sokaogon Chippewa Community
St. Croix Chippewa Indians of Wisconsin
Stockbridge-Munsee Community

OTHER REPORTS BY THE SENATE COMMITTEE ON POST AUDIT AND OVERSIGHT

August, 1993	A Program and Performance Audit of the Massachusetts Office of International Trade and Investment (MOITI) (S.1717)
May, 1993	Workers' Compensation: Is It Temporarily or Totally Disabled? (S.1600)
January, 1993	A Review of DMH Policy Planning and Implementation During the Closing of Northampton State Hospital (S.1485)
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February, 1991	Early Retirement: Designing and Implementing an Incentive Program in Massachusetts (S.1361)

Commonwealth of Massachusetts

MASSACHUSETTS SENATE

The Honorable William M. Bulger
President of the Senate

TOWARD GAMING REGULATION:
Part I: Crime

(Senate 100)

A Report of the

SENATE COMMITTEE ON POST AUDIT AND OVERSIGHT

Sen. Thomas C. Norton, Chairman

Sen. W. Paul White, Vice-Chairman
Sen. Linda J. Melconian
Sen. Robert A. Havern
Sen. Mark C. W. Montigney
Senator Robert C. Buell
Senator Jane M. Swift

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January 1994

The Commonwealth of Massachusetts

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January 6, 1994

Edward B. O'Neill
Clerk of the Senate
State House, Room 208
Boston, MA 02133

Dear Mr. O'Neill:

Pursuant to M.G.L. Chapter 3, Section 63 as most recently amended by Chapter 557 of the Acts of 1986, the Senate Committee on Post Audit and Oversight respectfully submits to the full Senate the following report: **Toward Gaming Regulation, Part I: Crime**.

This report is based on research by the Senate Post Audit and Oversight Bureau. It examines the relationship between the introduction of legalized gaming in a community and the impact of that action on crime incidences and rates in and around the host community.

Respectfully filed by the Senate Committee on Post Audit and Oversight:

Senator Thomas C. Norton
Chairman

Senator W. Paul White
Vice-Chairman

Senator Linda J. Melconian

Senator Robert A. Havern

Senator Mark C. W. Montigny

Senator Robert C. Buell

Senator Jane M. Swift

EXECUTIVE SUMMARY

In September the Senate Committee on Post Audit and Oversight released Toward Expanded Gaming: A Review of Gaming in Massachusetts, which outlined the present state of the gambling industry in Massachusetts and its potential for expansion. Toward Gaming Regulation: Part I, Crime examines the relationship between gaming and crime, specifically, between the implementation of gaming in a community and that community's subsequent level of crime. The report also looks at the issue of organized crime, and its impact on the gaming industry. A final document will be released in the near future pertaining to compulsive or problem gambling, and regulatory matters.

According to conventional wisdom, casino gaming attracts crime and criminal behaviors, specifically burglary, larceny, and theft. In fact, fifty-seven percent of those surveyed for the Boston Globe agreed that an increase in gambling activities will lead to increased crime.

The Committee reviewed data that were compiled by law enforcement agencies across the country for the United States Department of Justice that registered incidence of criminal acts committed in municipalities with more than 10,000 inhabitants, and rates of crime (per 100,000 inhabitants) for each municipality's metropolitan statistical area. The Committee also reviewed data depicting crime and criminal behaviors in several metropolitan statistical area's within which casino gaming was recently sanctioned. These data were reviewed in an attempt to ascertain the effect that gaming had on crime in the casino facility's greater surrounding community.

The data were reviewed in an attempt to validate a specific charge: that the introduction of casino gaming causes an increase in crimes and criminal behavior within and around the host community. The data do not support the conventional wisdom that there is a demonstrated link between casino establishments and crime.

In fact, the data indicate that few statistical patterns or discernable crime trends could be related directly to the introduction of casino gaming into a municipality.

The Massachusetts Attorney General correctly observed that there was an immediate and substantial increase in crimes recorded in Atlantic City after that city's implementation of legalized casino gaming. The Committee was encouraged to see, therefore, that similar trends were not duplicated in municipalities recently implementing limited casino gaming.

If gaming causes or attracts crime, crime statistics should rise, and continue to do so in communities that have legalized gaming. Statistics should indicate an immediate and sustained relationship between gaming and crime. They do not.

The Committee believes that there is no statistical evidence proving that the legalization and implementation of gaming in a community will cause an increase in the crime rate of the host municipality, or its greater surrounding area. Some communities experienced a decrease in incidence of crime and crime rates after implementing legalized casino gaming. Yet, while it would be irresponsible to argue that the implementation of casino gaming causes a reduction in a community's level of crime, the Committee believes that is equally irresponsible to argue the reverse.

The Committee also examined the issue of organized crime, which focusses its efforts mainly on illegal lotteries and sports betting. The illegal numbers handle has been estimated to equal half of the illegal sports wagering handle, yet twice as much as the legal state lottery handle.

It has been estimated that the illegal gaming stream could encompass up to two-hundred percent of the legal gaming stream. As such, more than $10.2 billion may be illegally wagered within the Commonwealth each year.

Although the state Lottery was originally presented by its proponents as an anti-crime measure, it has done little to weaken the popularity of the street number whose strength is based upon telephone access, tax-free prize payouts, and credit.

Organized crime has been kept out of the casino industry by stiff and vigilant regulation. Consequently, crime organizations have targeted the unregulated Indian gaming industry as susceptible to its influence. Crime organizations have attempted to infiltrate the regulated casino industry through associations with industries that provide ancillary services to the casino industry, such as food companies, hotels, laundry services, and construction companies.

Consequently, the Committee recommends that regulation of any Massachusetts casino industry include oversight of gaming license holders and all businesses contracting with those state regulated facilities.

Additionally, the Committee surveyed law enforcement personnel to ascertain the impact of legalized casino gaming on public corruption. The Committee learned that, in general, there had been "no real change" or "no increase" in the number of public corruption indictments or convictions in states which have legalized casino gaming.

The Committee found that policy-makers are most susceptible to corruption during three basic stages of policy development:

- during the *final* stages of policy development, when industry standards are being crafted (i.e. take-out rates, facility siting locations, siting requirements);
- during the awarding of gaming licenses; and,
- during actual gaming operations.

And as corruption practices and influences are as varied as the individuals involved, and shift through the various stages of policy development, law enforcement personnel should be prepared to shift their focus depending upon the applicable stage of policy implementation.

As such, The Committee recommends that any casino gaming enabling legislation include language apportioning the various responsibilities and functions of policy development and implementation among a wide array of individuals and concerns so as to minimize the overall impact of any one individual.

FOREWORD

In September the Senate Committee on Post Audit and Oversight released Toward Expanded Gaming: A Review of Gaming in Massachusetts, which outlined the present state of the gambling industry in Massachusetts and its potential for expansion. At that time the Committee announced that a second report would examine the impacts of gaming on crime and compulsive gambling, and define the need for a professional state gaming commission. This document fulfills part of that goal.

Toward Gaming Regulation: Part I, Crime presents the Committee's research into the issue of gaming and crime, specifically, between the implementation of gaming in a community and the subsequent levels of crime in and around the host community. A final document will be released in the near future pertaining to compulsive or problem gambling, and regulatory matters.

The argument against any expansion of gaming in a state generally begins with the issue of crime. In fact, the Massachusetts Attorney General has used the crime issue as a central tenet in his forceful argument against the expansion of gaming in the Commonwealth.

The perceived link between gaming and crime has been made so frequently, and forcefully, that conventional wisdom indicates that each is inexorably linked to the other. Introduce one, and welcome both.

In my Foreword to our last gaming report I wrote that a truthful and frank examination of the gaming industry would be either a noteworthy entry in my legislative legacy or the lead paragraph in my political obituary. Since that time, my home community of Fall River has voted overwhelmingly to support a referendum on casino gaming.

Our research has shown that the gaming industry can produce millions of dollars in state and local revenue, thousands of full-time, well-paying jobs, while incurring little negative impact on the surrounding community.

My obituary will have to wait.

Gaming issues must be settled in the cleansing light of day. In the past, gaming decisions were made under cover of darkness and clouds of smoke. Well, I for one think it is time to turn on the lights, clear out the smoke, and look at the hard facts.

Look at what you will find.

Data compiled by and for the Federal Bureau of Investigation show that there is no discernable relationship between the introduction of gaming in a community and subsequent crime or criminal activity in that community. In fact, data indicate that the legalization of casino gaming is often followed by a drop in the rate and number of crimes committed within the legalizing community. The Committee was unable to define any consistent trends portraying the impact of gaming on crime in a community.

This is not to say that the issue of crime can be ignored by states which are effected by casino gaming. According to the FBI, the one segment of the gaming industry most susceptible to organized crime is the Indian gaming industry, whose casinos are beyond the scope of state oversight and are largely unregulated. We agree with the Massachusetts Attorney General that any expansion of gaming in the Commonwealth must be preceded by a defined state policy, and

implemented in conjunction with strict regulation and vigilant oversight.

We also agree with the Attorney General that the implementation of gaming in Massachusetts will mandate additional costs, costs to pay for increased public safety funding, and to pay for social education and treatment. The reality is, however, that there are many programs in Massachusetts which require an infusion of new revenue. There is precious little movement, however, to cover these costs through increased taxes.

The Commonwealth needs revenue. Our citizens need jobs.

With this report, the development of a rational plan to expand gaming in Massachusetts continues.

I would like to thank the members of the Committee, the staff of the Bureau, and all those who contributed to the preparation and completion of this report.

Thomas C. Norton, Chairman

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INTRODUCTION

The Senate Committee on Post Audit and Oversight conducted a series of public hearings from 19 May through 10 June 1993 to examine the social and economic impacts of the gaming industry. The Committee solicited and received written and oral testimony from industry principals representing the pari-mutuel industry, electronic gaming, the state lottery, and casino gaming. The Committee also received testimony from federal and state law enforcement agencies, regulatory agencies, and problem gambling social service agencies.

On 20 September 1993 the Committee submitted to the full Senate a report titled Toward Expanded Gaming: A Review of Gaming in Massachusetts, which focussed primarily on economic issues. At that time, the Committee announced that a second report would examine the impacts of gaming on crime and compulsive gambling, and define the need for a professional state gaming commission. This document fulfills part of that goal.

Toward Gaming Regulation: Part I, Crime presents the Committee's research into the issue of gaming and crime. The Committee examined the relationship between the introduction of legalized gaming in a community and the impact of that legalization on crime incidence and rates in and around the host community. The decision was subsequently made to issue this report, and follow it with one final document presenting our research on compulsive or problem gaming, and regulatory matters.

This report is presented in three parts, including sections on organized crime, violent and property crime, and the Committee's conclusion, respectively. The Committee relied on statistical data that was compiled by and for the Federal Bureau of Investigation, and testimony that was provided directly to the Senate Committee on Post Audit and Oversight and its research bureau.

The image of the gambling industry is paradoxical. While welcomed by municipal leaders as a well-spring of non-tax revenue, an engine of economic development, and a source of ready employment, casinos are often simultaneously denounced as crime loci and traps for compulsive gamblers. The belief that "gaming equals crime" has been stated so often, and with such finality, it has assumed an aura of implicit truth. As part of its charge to examine the social impacts of gaming, the Senate Committee on Post Audit and Oversight examined the oft-implied relationship between gaming and crime.

A recent poll commissioned by the Boston Globe, illustrated the disjointed public attitude towards the industry. Sixty-three percent of the respondents stated that they routinely gambled at least once a month. Nineteen percent said that they had travelled to Las Vegas or Atlantic City at least once during the previous twelve months, and forty-three percent stated that they would support the siting of a land-based casino within thirty miles of their home.

Nevertheless, forty-one percent of the poll respondents agreed with the statement that gambling erodes the work ethic; fifty-seven percent thought that gambling erodes moral values; and sixty-three percent thought that gambling sets a bad example for children.

However, an overwhelming eighty-three percent of those surveyed agreed that gambling should be legalized in order to pay for public services.

In order to accurately assess the relationship between gambling and crime the Senate Committee on Post Audit and Oversight (hereinafter referred to as "the Committee") examined the two types of crime that are most frequently assumed to be associated with gambling, organized crime and crimes of violence and property.

Organized crime was described to the Committee as "a continuing and self-perpetuating criminal conspiracy fed by fear and corruption and motivated by greed." The term "organized crime" extends far beyond the so-called "Mafia." It includes any coordinated effort to defraud, extort, stifle, or encroach upon the legal operation of legally established businesses. In recent years organized crime has become increasingly visible within the closed Asian communities of many major American cities.

Crimes of property and violence include murder, non-negligent man-slaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. For information on incidence of crime and criminal behaviors, the Committee reviewed documents that were compiled by the United States Department of Justice.

The Committee would like to thank the various individuals who provided it with information during the course of this study, including Mr. James E. Moody, Chief of the Federal Bureau of Investigation's Organized Crime/Drug Operations #2, Criminal Investigative Division, and Sgt.

Thomas Foley of the Massachusetts State Police Special Service Section. The Committee is indebted to all those who courteously responded to its requests, and provided it with data and written testimony.

STATEMENT OF CHAIRMAN THOMAS C. NORTON

The following was read by Sen. Thomas C. Norton at the beginning of each day's testimony during the Senate Committee on Post Audit and Oversight's public hearings:

"Good morning. This hearing of the Senate Committee on Post Audit and Oversight is called to order.

"The Senate Committee on Post Audit and Oversight has scheduled a series of public hearings to examine the social and economic impacts of gaming within the Commonwealth. The Committee is seeking to establish:

1) the state's role in gaming;
2) the role of gaming revenue in the state's revenue mix;
3) the ramifications of the expansion of gaming in Massachusetts;
4) the regulatory and security issues applicable to gaming; and
5) the societal costs of gaming.

"These oversight hearings have been authorized by the Committee as defined by chapter three, section sixty-three and sixty-four of Massachusetts General Law. The Committee has not requested, nor shall it accept, testimony on any specific bill currently pending before the legislature.

"The Committee solicited a wide range of witnesses from within all sectors of the gaming industry, including operators and regulators. Inclusion or exclusion of any party should not be inferred as a Committee recommendation or condemnation.

"Unsolicited public comment shall be allowed on the afternoon of June 10, the final day of the scheduled gaming hearings."

PART ONE: ORGANIZED CRIME

The state Lottery was defined as a public safety measure by many of its initial proponents. It was argued that a legal lottery would divert monies that were formerly wagered illegally and literally, 'put the mob out of business.'

The Lottery recently celebrated its twentieth anniversary. By all standards the Massachusetts State Lottery is a national success story. Its annual gross is higher than most lotteries throughout the country, as is its annual net. However, it has done very little to weaken organized crime.

According to testimony, organized crime is "thriving" in Massachusetts, "still out there," despite the fact that more than $1.7 billion was legally wagered on the state Lottery, that more than $400 million was legally wagered on pari-mutuel racing, and that more than $270 million was legally wagered on bingo and Las Vegas charitable gaming events.

It is difficult to estimate the breadth of the illegal gaming market. In 1974 a federal Commission on the "Review of the National Policy Toward Gambling" estimated that the extent of illegal gambling ranged from twelve to two-hundred percent of the legal gambling stream. This absurdly wide range illustrates the nebulous area within which law enforcement is operating. Nevertheless, experts agree that organized crime is still active in most of the states in the country.

Organized crime focusses its gambling activities on the "street number" and sports betting. The street number is essentially an illegal numbers game. Players choose a series of numbers, wager via a "runner," and identify the day's winning number through a formula that utilizes several of the existing state lottery drawings. Witnesses testified that "the street number can be picked out of a newspaper every morning."[1]

The illegal street number has successfully co-existed with the legal state Lottery for twenty years. This success is based is based upon three aspects, 1) telephone betting, 2) tax-free prizes, and 3) the availability of credit.

---

[1]Testimony before the Senate Committee on Post Audit and Oversight, June 10, 1993.

> The benefit to the illegal numbers operation is that a guy can pick up the phone and make a bet; and if he doesn't have $50 dollars in his pocket, he may have it by Friday ....[2]

Testimony indicated that the street number is so widely available that newspapers are "providing a service" to organized crime by printing the state Lottery results, especially in the Northeast portion of the country where studies show that most illegal numbers activity occurs.

Electronic gaming is another area that has reputedly attracted the attention of organized crime. Witnesses testified that organized crime has been linked to the so-called video poker "grey machine" market, (machines that are owned by organized crime, and that "pay off" in monetary prizes as opposed to free games or credits).

Video poker machines are currently situated in many locations around the Commonwealth. The machines are similar in appearance to slot machines. They are activated by game tokens, and are legally used "for entertainment purposes only." There is no law against owning, or playing a video poker machine in Massachusetts.

According to Commonwealth v. Club Caravan, Inc., 30 Mass.App.Ct 561, the "grey machine market" works as follows:

> The evidence in some cases showed actual use of the machines for gambling: i.e. paying off in money rather than free games. The machines were built to accommodate this. The running total of games credited to a player showed on a video screen. The total would rise by one for each quarter inserted -these could be stacked- and for each game awarded as winnings; it would decline by one for each hand played, unless the player elected to bet multiple game credits on a hand so as to multiply his potential winnings. Where the machines were used for gambling, a player could cash in his accumulated game credits. The bartender would give then player twenty-five times the number of game credits shown on the machine, then activate a "knock-off" switch (sometimes a recessed button, sometimes a key switch, sometimes a magnetic switch operated by striking the machine in a particular spot) that would erase from the screen the total of credited games. Two meters inside a locked compartment under the machine kept track of quarters inserted (i.e. games paid for) and games knocked off. The service man from the distributor would periodically open the compartment, repay the bar or lounge for the games knocked off, and split the net proceeds (games paid for, less games knocked off) with the bar or lounge.

Not all video poker machines are part of the grey machine market. Grey machines, as such, contain a meter that record the aggregate number of "knocked off" game credits, by which

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[2]Ibid.

reimbursements are made to a bar or club. It is difficult to estimate the number of "grey machines" that are located throughout the state. Testimony indicated that the machines are often located in membership-only clubs. The Massachusetts State Police has estimated, however, that between eight to twelve thousand grey machines are now located within the Commonwealth.[3]

The increased availability of legal gaming options (i.e. state lotteries, bingo, Las Vegas Nights, pari-mutuel wagering) has done little to dampen illegal gaming. In fact, according to the Commission on the Review of the National Policy Toward Gambling, "participation in illegal gambling was significantly greater in states where at least three types of gambling were legal compared with states where no form of gambling is legal."[4]

In September 1991 the State of New Jersey "Commission of Investigation: Video Gambling" stated that:

> . . .the availability of so many forms of legal gaming in New Jersey has not cut into the appeal of the illegal gambling business. Revenue from this source is used to finance many other criminal endeavors, including the takeover of legitimate businesses, and the corruption of public officials. Illegal gambling, especially the numbers racket and sports betting, remains a major problem.[5]

The Chicago Crime Commission in 1990 issued a report contending that "mobster convictions" indicate that organized crime continues to maintain a considerable presence:

> Organized crime members continue to exert influence over courts and government offices. Their strangle-hold over a few powerful unions remain intact. They dominate the so called "adult entertainment" business. They hold interests in businesses ranging from automobile dealerships to waste hauling firms, from hot dog stands to fancy bars and clubs. Most importantly, organized crime in the Chicago area continues to reap substantial profits from illegal gambling, loan sharking, narcotics, prostitution, and contract murder.[6]

---

[3]Video poker machines should not be confused with Keno, which was specifically sanctioned by the state legislature in an outside section of the fiscal year 1994 state budget. Grey machines (and video wagering, in general) are subsets of what is colloquially termed "electronic wagering," and must be sanctioned independently of Keno. The legislature did not intend to sanction electronic gaming when it legalized Keno. By way of example, the West Virginia State Supreme Court ruled that the state Lottery did not have the authority to establish electronic wagering without specific legislation outlining machine ownership, control, and policy regulation (Mountaineer Park v. Polan, 1993).

[4]Second Interim Report, p. 43.

[5]State of New Jersey, Commission of Investigation, September 1991, James R. Zazzali, Chairman, p. 3 and 4.

[6]Better Government Association Staff White Paper: Casino Gambling in Chicago, October, 1992, V 1.2, p.79.

While it is difficult to estimate the breadth of the illegal gaming stream, it has been calculated that the annual illegal "numbers handle" equals "one half the total illegal sports book handle, but twice the legal state lottery handle."[7] This formula, although inexact, would place the Massachusetts illegal gaming revenue stream slightly above $10.2 billion per year ($1.7 billion in legal Lottery wagers, $3.4 billion in illegal street number wagers, and $6.8 billion for illegal sports betting wagers).[8]

Nevertheless, more persons patronize the legal state lottery than all illegal gaming venues combined. A survey commissioned by the National Institute of Mental Health indicated that thirty-eight percent of the general public wagered on illegal gaming machines, and twenty-four percent wagered on sports betting. According to this report, however, fully seventy-nine percent of the general public wagered on the state lottery.

Organized Crime and Casino Gaming

The Committee was unable to obtain any demonstrable representation of the impact of organized crime on the regulated casino gaming industry. The FBI stated that "(w)e see a continuing effort by organized crime to corrupt the casino systems. Generally what we find, though, is we don't see any major corruption of casinos in the United States. We do not see that."

This contention was also supported by the Chicago Better Government Association who found that:

> . . .ownership of casinos is the most profitable means by which organized crime can steal from the casinos. Money laundering and skimming are simple procedures and particularly difficult to detect when those in charge are involved. However, after years of concerted effort by the Justice Department and Nevada and New Jersey regulatory agencies, organized crime has been largely eliminated from casino ownership. Today, law enforcement experts agree that as long as regulations similar to those existing in New Jersey are used and enforced at new casino sites, organized crime can be prohibited in casino ownership and management.[9]

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[7]Second Interim Report of the Commission on the Review of the National Policy Toward Gambling, Washington, D.C., July, 1976, p. 44.

[8]While this formula is inexact (state sponsored lotteries today are more numerous and in different stages of development than in 1976) it is the only federally derived estimate defining the breadth of the illegal wagering revenue stream.

[9]Staff White Paper, p. 82.

Stiff and vigilant regulation has kept organized crime at bay from the casino industry. States routinely require that gaming license applicants submit to rigorous background and security clearances. This approval procedure allows the regulating body to ascertain which parties stand to benefit from a proposed casino operation.

For example, regulators now review applications for potential "straw men," (persons without criminal backgrounds who act as proxy for shadow owners). Witnesses before the Committee testified that straw men have, in the past, been used by crime organizations to purchase casinos in Las Vegas that were later used for money laundering and skimming. According to the FBI, state regulatory oversight has successfully terminated "straw man" scenarios in regulated casino facilities. In fact, state oversight and regulatory controls have forced the casino industry to maintain standards of conduct.

One casino gaming license holder testified that his license was too valuable to risk.

> The state of Nevada constantly reminds license holders that a license is a privilege, not a right; and that if you are not a good boy, they're going to take it away from you. That leverage has a strong tendency to keep everybody's nose clean and make sure I'm watching over my safety.
>
> I had to fire a 27 year old employee because there was an allegation that he was referring a prostitute to somebody. That was a sad day, but I wasn't going to jeopardize my license and my several hundred million dollar investment.[10]

Increased state regulatory oversight has effectively cleared the casino industry of organized crime. However, like any other system, organized crime has attempted to adjust to the new environment. As such, it has shifted its focus, in recent years, from state regulated gaming facilities toward un-regulated Indian gaming projects. For example:

> In January, 1992, a fifteen count indictment naming ten individuals was returned by a grand jury in San Diego, California. This indictment alleged a conspiracy to infiltrate a legal Indian gaming operation on the Rincon Reservation in San Diego. Among the individuals indicted in this case (the) alleged current leader of the Chicago mob's day-to-day operations (and) the mob's top odds maker and west coast power. . . .
>
> Witnesses from the FBI, the California Attorney General's office and a federally protected witness related that organized crime had control of twelve to ninety Indian bingo operations throughout the country. Organized crime maintained an interest in these bingo operations through the use of management companies which are employed by

[10]Testimony before Senate Committee on Post Audit and Oversight, May 20, 1993.

the Indian tribes to oversee and run bingo games.[11]

Witnesses testified that organized crime's shift in focus toward Indian gaming is directly related to the fact that these facilities have huge revenue generating capacities, yet are largely unregulated. For example, while the state of New Jersey has over 290 investigators overseeing its casino industry, the Bureau of Indian Affairs is reportedly hiring ten investigators to "look into Indian gaming throughout the United States."[12] Testimony further indicated that organized crime has aimed its "straw man" strategy at Indian gaming facilities which are beyond the reach of state oversight or control.

Witnesses testified that, in many instances, organized crime has moved away from "traditional industries" and into the more vulnerable service industries. Consequently, although they may not be involved in the casino industry, organized crime principals may own non-gaming companies and corporations which provide ancillary services to the entertainment industry, such as food companies, hotels, laundry services, and construction businesses. Profits can be realized through "false billings, inflated prices, and methods of intimidation to prevent free market competition for business contracts."[13]

Organized crime will remain a force to be dealt with in Massachusetts regardless of the state's gaming policy. The legalization or continued prohibition of casino gaming within the Commonwealth will have no bearing on its survival. If casino gaming is legalized in Massachusetts, however, precautions and preventions should be developed to keep organized crime out of the industry. State oversight must be extensive, reaching beyond the parameters of the casino license-holder to include corporations that provide ancillary services to each facility.

The Committee recommends that regulation of a Massachusetts casino gaming industry include oversight of gaming license holders and all businesses contracting with those state regulated facilities.

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[11]Testimony of Robert R. Fuesel, Executive Director, Chicago Crime Commission, to the Illinois Senate Subcommittee on Gaming, June 8, 1993, pages two and three.

[12]Testimony before Senate Committee on Post Audit and Oversight, June 10, 1993.

[13]Testimony submitted by William Roemer to Chicago Metro Ethics Coalition panel, July, 1992.

Public Corruption

It has been said that governors and legislators want to create two things: jobs and revenue. Both commodities can be created by leveraging the casino industry. The state need only provide approval and oversight to activate this industry. Consequently, the decisions of public officials can greatly influence the flow of millions of dollars in revenue. The potential for public corruption is high.

In order to gain a perspective on the link between gaming and public corruption, the Committee surveyed state and federal law enforcement personnel in the states of Iowa, Illinois, and Louisiana, all which recently implemented casino gaming.[14] Respondents indicated that there had been "no real change" or "no increase" in the number of indictments or convictions for public corruption in the states of Iowa or Illinois during the past few years.

The attorney general's office in the state of Louisiana reported that there had been no real acceleration in the number of indictments or convictions for public corruption during the past few years. However, the spokesperson stated, in his opinion the issue was going to "rise to the surface" in the coming months.

There are three basic stages when policy-makers are most susceptible to corruption:

- during the *final* stages of policy development, when industry standards are being crafted (i.e. take-out rates, facility siting locations, siting requirements);
- during the awarding of gaming licenses; and,
- during actual gaming operations.

Corruption practices and influences are as varied as the individuals involved, and shift through the various stages of policy development. The state of Louisiana Department of Justice provided the Committee with the following examples of allegations of public corruption:

- the Governor's office attempted to override the decision of the Louisiana State Police to not award a gaming license to an individual who "failed" a background security check,

- the member of a siting board voted to award a lease to a gaming facility despite the fact that he held a controlling interest in a company which provided the telephone system to

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[14]Surveys conducted on 23 November 1993 with office of Iowa Attorney General; office of Louisiana Gaming Division of the Attorney General; office of United States Attorney in Central Illinois District; office of United States Attorney in Southern Illinois District; office of United States Attorney in Northern Illinois District; office of Illinois Attorney General's Communications Department; and Office of Colorado Department of Public Safety.

the gaming facility,

- a deputy police chief attempted to obtain employment with a video poker company despite the fact that such employment in the gaming industry violated department policy.[15]

In order to protect against public corruption, law enforcement personnel should be prepared to shift their focus depending upon the applicable stage of policy development. Additionally, no one individual should be allowed overriding influence in policy development.

For example, state-wide policy makers who craft enabling legislation, should not be involved in awarding gaming licenses; gaming commission authorities, who will oversee license background reviews, security checks, and award gaming licenses should not craft enabling legislation or seek immediate employment with a casino gaming license holder; gaming facility operators should not be involved in any of the previously defined responsibilities.

The Committee recommends that any casino gaming enabling legislation include language apportioning the various responsibilities and functions of policy development and implementation among a wide array of individuals and concerns so as to minimize the impact of any one individual upon said policy.

[15]This prohibition does not include paid security detail work.

PART TWO: VIOLENT AND PROPERTY CRIME

According to conventional wisdom, casino gaming attracts crime and criminal behaviors, specifically burglary, larceny, and theft. In fact, fifty-seven percent of those surveyed for the Boston Globe agreed that an increase in gambling activities will lead to increased crime.

This perceived relationship between gaming and crime was the subject of comment by the Massachusetts Attorney General in testimony submitted to the Senate Committee on Post Audit and Oversight and before the Joint Committee on Government Regulations:

> [s]tudies show an increase in gambling results in an increase in violent crime and crimes against property.[16]

To determine whether there is positive evidence that gaming increases crime the Committee reviewed data that were compiled by law enforcement agencies across the country for the United States Department of Justice. These data register incidence of criminal acts committed in municipalities with more than 10,000 inhabitants, and rates of crime (per 100,000 inhabitants) for each municipality's metropolitan statistical area (MSA). Both sets of data allowed the Committee to gauge the crime trends within casino gaming host municipalities, and within each municipality's greater surrounding community.

Specific crime reports were reviewed for the Illinois municipalities of Alton, Joliet, Peoria, and Rock Island and the Iowa municipalities of Davenport and Dubuque, all of which have authorized water-based casino gaming. Crime rates were reviewed for each corresponding MSA, including St. Louis (for Alton); Chicago-Gary-Lake County (for Joliet); Peoria; Dubuque; and Davenport-Rock Island-Moline, which included two water-based facilities.

Casino gaming was implemented in Davenport and Dubuque in April, 1991; in Alton in September, 1991; in Peoria in November, 1991; in Rock Island in March, 1992; and in Joliet in June, 1992. Crime records were reviewed which depicted incidence of crime and criminal behaviors for 1975, 1980, 1985, 1988, 1990, 1991, and 1992.

The data were reviewed in an attempt to ascertain the validity of a specific charge: that the

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[16]Testimony of Attorney General of the Commonwealth of Massachusetts before the Joint Committee on Government Regulations on Bills Seeking the Expansion of Gambling, April 14, 1993.

introduction of casino gaming causes an increase in crimes and criminal behavior within and around the host community. The data do not support the conventional wisdom that there is a demonstrated link between casino establishments and crime.

The Local Impact of Gaming on Crime

The Committee reviewed various data sets showing crime frequencies in individual municipalities around the country. Data were compiled and analyzed that detailed the number of incidents of aggravated assault, burglary, larceny-theft, and robbery that were committed within various municipalities with casino gaming facilities (**see Tables One and Two**).[17] Other data were provided by the Federal Bureau of Investigation that denoted the number of criminal offenses committed within municipalities that had sanctioned casino gaming (see **Table Three**). Statistics applicable to the city of Boston were compiled as a control measure.

The data indicate that few statistical patterns or discernable crime trends could be related directly to the introduction of casino gaming into a municipality. While crime incidents may have increased in several communities from 1988 through 1992, much of the reported increases occurred from 1988 through 1990, the period which preceded the legalization of gaming.

For example, while reported burglaries in Peoria increased by over eight hundred percent from 1988 through 1992, most of this increase occurred from 1988 through 1990 (see **Table Two**). Reported robberies in Alton and Rock Island increased from 1988 to 1990 by twenty-three percent, and fifty-four percent, respectively, yet by much smaller percentages from 1990 to 1992, after the legalization of gaming. Similar examples can be found in the assault statistics for Alton and Joliet, and in the larceny-theft statistics for Davenport.

Other data show that, from 1988 to 1992, the overall number of reported crimes decreased in several communities. Aggravated assaults decreased in Alton, Joliet and Dubuque from 1988 through 1992, as did burglaries in Alton and Joliet, incidents of larceny-theft in Joliet, Rock Island, and Dubuque, and robberies in Joliet and Dubuque.

Communities that registered increases in crime statistics showed that these increases were not linked to gaming. Incidents of aggravated assault increased by forty-eight percent in Rock Island from 1988 to 1992. However, incidents of assault in Rock Island decreased from 1991

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[17]Data for Dubuque, Iowa were unavailable for 1990 and 1991.

to 1992, the year *after* casino gaming was implemented.

Similar statistics were registered for the municipality of Davenport, which registered a nine percent increase in the number of burglaries from 1990 to 1992, but a fifteen percent decrease in the number of burglaries from 1991 to 1992 (see Table One). Rock Island burglaries showed a ten percent increase from 1990 to 1991, then a fifteen percent decrease from 1991 to 1992.

Data indicate that, in certain instances, crime and criminal behavior did increase after the introduction of casino gaming in some communities. Reported assaults in Davenport and Peoria increased from 1990 through 1992, as did incidence of theft in Alton, and robbery in Davenport. The data further indicate, however, that most of *these*

TABLE ONE

INCIDENCE OF CRIME BY MUNICIPALITY

	AGGRAVATED ASSAULT				
	1985	1988	1990	1991	1992
Alton,IL	115	139	150	113	130
Joliet,IL	604	618	640	544	501
Peoria,IL	847	1019	1015	1129	1200
Rock Isld,IL	225	187	265	330	277
Davenport,IA	803	665	761	1098	1188
Dubuque,IA	56	186	unavail.	unavail.	90
Boston,MA	5036	6291	6960	6446	6297
	BURGLARY				
	1985	1988	1990	1991	1992
Alton,IL	486	677	687	607	657
Joliet,IL	1528	1725	1318	1357	1312
Peoria,IL	1874	296	2272	2503	2765
Rock Isld,IL	569	412	523	577	488
Davenport,IA	1768	1739	1777	2273	1939
Dubuque,IA	793	361	unavail.	unavail.	397
Boston,MA	11470	9163	10238	10029	8718
	LARCENY-THEFT				
	1985	1988	1990	1991	1992
Alton,IL	1715	1746	1744	1906	1956
Joliet,IL	3616	4716	4340	4420	4115
Peoria,IL	5515	5878	5985	6362	6572
Rock Isld,IL	2189	1855	1782	1759	1662
Davenport,IA	4033	4471	5444	6045	5494
Dubuque,IA	2207	1837	unavail.	unavail.	1665
Boston,MA	26938	28542	29642	26726	24598
	ROBBERY				
	1985	1988	1990	1991	1992
Alton,IL	79	81	100	94	107
Joliet,IL	181	323	276	281	251
Peoria,IL	203	228	348	499	588
Rock Isld,IL	51	55	85	106	117
Davenport,IA	200	131	184	294	269
Dubuque,IA	21	16	unavail.	unavail.	16
Boston,MA	6232	5233	6022	4784	4765

source: U.S. Dept. of Justice

TABLE TWO

REPORTED CRIME GROWTH RATE

Alton	Assault	Burglary	Theft	Robbery
88–92	–6%	–3%	12%	32%
88–90	8%	1%	–.1%	23%
90–92	–13%	–4%	12%	7%
Joliet	**Assault**	**Burglary**	**Theft**	**Robbery**
88–92	–19%	–24%	–13%	–22%
88–90	4%	–24%	–8%	–15%
90–92	–22%	–.5%	–5%	–9%
Peoria	**Assault**	**Burglary**	**Theft**	**Robbery**
88–92	18%	834%	12%	158%
88–90	–.4%	668%	2%	53%
90–92	18%	22%	10%	69%
Rock Isl	**Assault**	**Burglary**	**Theft**	**Robbery**
88–92	48%	18%	–10%	113%
88–90	42%	27%	–4%	54%
90–92	4%	–7%	–7%	38%
Davenport	**Assault**	**Burglary**	**Theft**	**Robbery**
88–92	79%	11%	23%	105%
88–90	14%	2%	22%	40%
90–92	56%	9%	1%	46%
Boston	**Assault**	**Burglary**	**Theft**	**Robbery**
88–92	.1%	–5%	–14%	–9%
88–90	11%	12%	4%	15%
90–92	–9%	–15%	%–17	–21%

source: Dept. of Justice

increases occurred from 1990 to 1991.

Had gaming been the sole determinant behind various increases in crime statistics, crime rates would have increased from 1990 to 1991, and again from 1991 to 1992. And, in fact, some crime rates did increase into 1992. However, the rates of increase were far below those registered for 1991. Reported incidents of larceny-theft in Alton increased by nine percent in 1991, yet by only 2.6 percent in 1992. Assaults in Davenport increased by forty-four percent in 1991, yet by only eight percent in 1992.

Other rates, however, declined after the legalization and implementation of casino gaming. Statistics for the municipality of Davenport (which has hosted a casino facility since April, 1991) show that, in 1992 burglaries declined by fifteen percent, while larceny-theft declined

by nine percent, and robbery declined by eight percent. Dubuque, which implemented casino gaming at approximately the same time as Davenport, registered 1992 crime statistics that were below its 1985 crime statistics.

Federal Bureau of Investigation Crime Data

The data that were supplied by the Federal Bureau of Investigation's Criminal Investigation Division include the Crime Index for the municipalities of Davenport, and Dubuque Iowa; Gulfport, Mississippi; Alton, Joliet, and Rock Island, Illinois; South Lake Tahoe, California; Central City, Colorado; and Las Vegas, and Reno, Nevada.[18]

The Crime Index is the most comprehensive measure that the FBI utilizes. It includes the violent crimes of murder, non-negligent manslaughter, forcible rape, robbery, and aggravated assault; and the property crimes of burglary, larceny-theft, motor vehicle theft, and arson.

The Bureau provided crime data for 1) the annual number of offenses committed within each location from 1988 through 1992; and 2) the crime rate per 1,000 inhabitants from 1988 through 1992.

These data also indicated that no clear patterns or discernable trends could be related directly to the introduction of casino gaming into a municipality. The total number of criminal offenses committed within a community increased in five municipalities from 1990 through 1992, and decreased in five communities. Davenport and Reno recorded increases of less than three percent while Alton, Las Vegas, and Central City registered increases of 5.7 percent, 13.5 percent, and 343 percent, respectively. Rock Island registered a decrease of two percent; South Lake Tahoe registered a decrease of five percent; Joliet registered a six percent decrease; Gulfport registered a seven percent decrease; and Dubuque registered an eighteen percent decrease (**see Table Three**).

The data indicate that the communities surveyed by the FBI which registered high increases in crime rates from 1990 to 1992 were statistically predisposed toward higher crime rates at the beginning of the period. The four municipalities which listed the highest crime rates in 1990 (Central City, Davenport, Gulfport, and Davenport) listed the four highest crime rates in 1992.

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[18]The data were supplied in response to a legislative request for information depicting the impact of gaming on crime in communities other than the central gaming hubs of Las Vegas and Atlantic City.

TABLE THREE

FBI CRIME INDEX

	Offenses	Rate
DAVENPORT 1990	8595	90.2
1992	8801	91.2
change, 1990–92	2.4%	1.1%
DUBUQUE 1989	2817	47.4
1992	2302	39.5
change, 1990–92	-18.3%	-16.7%
GULFPORT 1990	3990	97.9
1992	3704	89.4
change, 1990–92	-7.2%	-8.7%
ALTON 1990	2811	85.4
1992	2971	88.7
change, 1990–92	5.7%	3.9%
JOLIET 1990	7385	96.1
1992	6964	89.1
change, 1990–92	-5.7%	-7.3%
ROCK ISL. 1990	2700	66.6
1992	2643	64.1
change, 1990–92	-2.1%	-3.8%
S.LAKE TAHOE 1990	1666	77.2
1992	1587	70.9
change, 1990–92	-4.7%	-8.2%
CENTRAL CITY 1990	39	116.4
1992	173	491.5
change, 1990–92	343.6%	322.3%
LAS VEGAS 1990	43944	71.3
1992	49880	73.5
change, 1990–92	13.5%	3.1%
RENO 1990	11558	86.4
1992	11766	79.6
change, 1990–92	1.8%	-7.9%

source: Federal Bureau of Investigation

Central City registered a crime rate of 491 in 1992 (the highest among the ten municipalities) and 116 in 1990 (the highest among the ten municipalities).

Conversely, Dubuque, which recorded the lowest rate of crime in 1989 (47 per 1,000 inhabitants) recorded the largest *decrease* in incidence of crime between 1988 and 1992.

Casino gaming facilities were located within nine of the ten communities included in the FBI statistics. Four municipalities registered an increase from 1988 through 1992 in the number of criminal offenses committed, or in the crime rate per 1,000 inhabitants; five communities registered a decrease in both indices.

The Committee recognizes that crime is a problem in every municipality and urban area in the country. However, it questions the causal relationship between gaming and crime. For example, the municipality of Peoria registered an increase in its number of reported assaults,

burglaries, incidents of larceny-theft, and robberies from 1990 through 1992. Critics blame these increases on casino gaming, which was legalized in Peoria in November, 1991. Casino gaming has not been legalized in Massachusetts. Nevertheless, from 1988 through 1992 the number of recorded assaults, burglaries, incidents of larceny-theft, and robbery all increased in the city of Boston. The data show that communities have experienced increases in crime whether or not they host a casino gaming facility.

The Regional Impact of Gaming on Crime

The final set of crime data that the Committee reviewed depicted crime and criminal behaviors in several metropolitan statistical area's (MSA's) within which casino gaming was recently sanctioned.

Data were reviewed for

- the Chicago-Gary-Lake County MSA (which contains the casino gaming site of Joliet, IL);
- the Dubuque MSA (which contains the Dubuque, IA gaming site);
- the Peoria MSA (which contains the Peoria site);
- the St. Louis MSA (the Alton site);
- the Davenport-Rock Island-Moline MSA (which contains both the Davenport and Rock Island casino gaming sites); and
- the Boston MSA (as a non-casino gaming control site).

These data were reviewed in an attempt to ascertain the effect that gaming had on crime in the casino facility's greater surrounding community. The Committee felt that this information would be of paramount concern to legislators and constituents in communities which may be affected by satellite casino sites across the Commonwealth.

The data were reviewed for crime rates per 100,000 inhabitants, and included the crimes of aggravated assault, burglary, larceny-theft, and robbery. The data indicate that, in some metropolitan statistical areas, the crime rates gradually increased from 1985 through 1991, then sharply decreased (**see Charts One through Six**).

For example, in the MSA's of Alton, Joliet, Peoria, and Rock Island, rates of larceny-theft increased from 1985 through 1991, then fell in 1992 to rates lower, in some cases, than those applicable to 1990. Similarly, assault rates in Alton, Joliet, Rock Island/Davenport, and Dubuque all increased from 1988 through 1991, then decreased slightly in 1992.

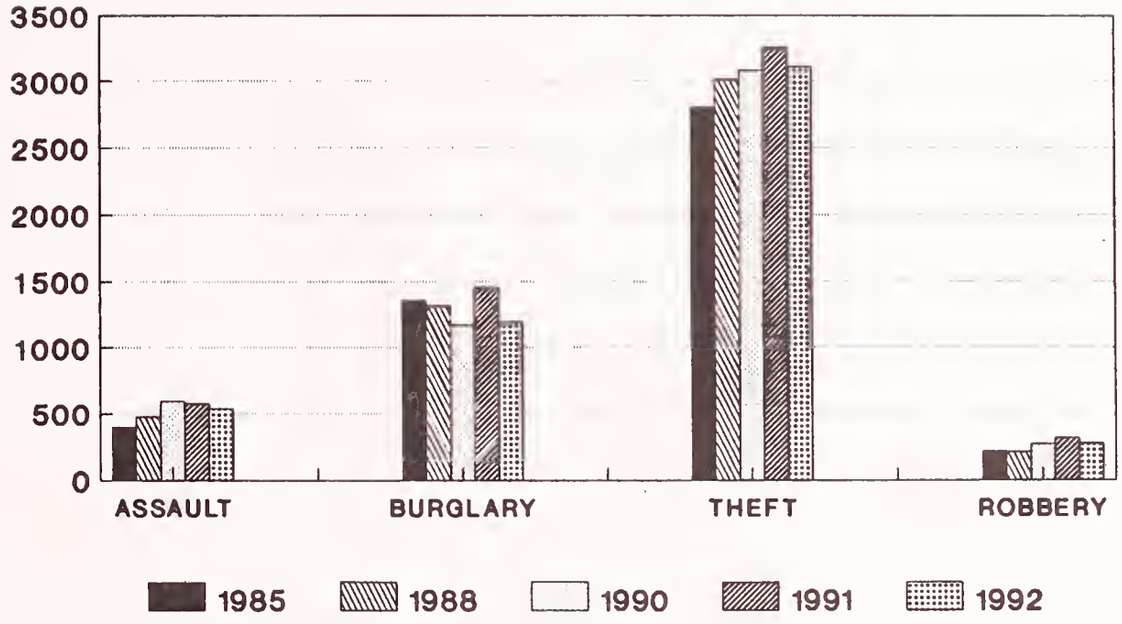
The data indicate that, in some MSA's, crime rates increased steadily from 1985 to 1991. Burglary, theft, and robbery rates in the Alton MSA all reached their highest point in 1991, as did assault, theft, and robbery rates in the Joliet MSA; larceny-theft in the Peoria MSA; and assault, burglary, larceny-theft, and robbery in the Rock Island/Davenport/Moline MSA. The data indicate that the crime increases were attributable to crimes committed outside of the host community. While various rates of crime in the Alton MSA increased from 1990 through 1991 the actual number of crimes committed within Alton declined (**see Table One**).

Additionally, the Committee noted that the actual number of assaults, and robberies committed in Joliet in 1991 was lower than the number of assaults, and robberies that were committed in Joliet in 1988.

Furthermore, several MSA's recorded a decrease in their crime rates from 1991 through 1992. These declines were of particular interest as they occurred during the first few months of legalized gaming, a period when conventional wisdom would expect crime rates to increase.

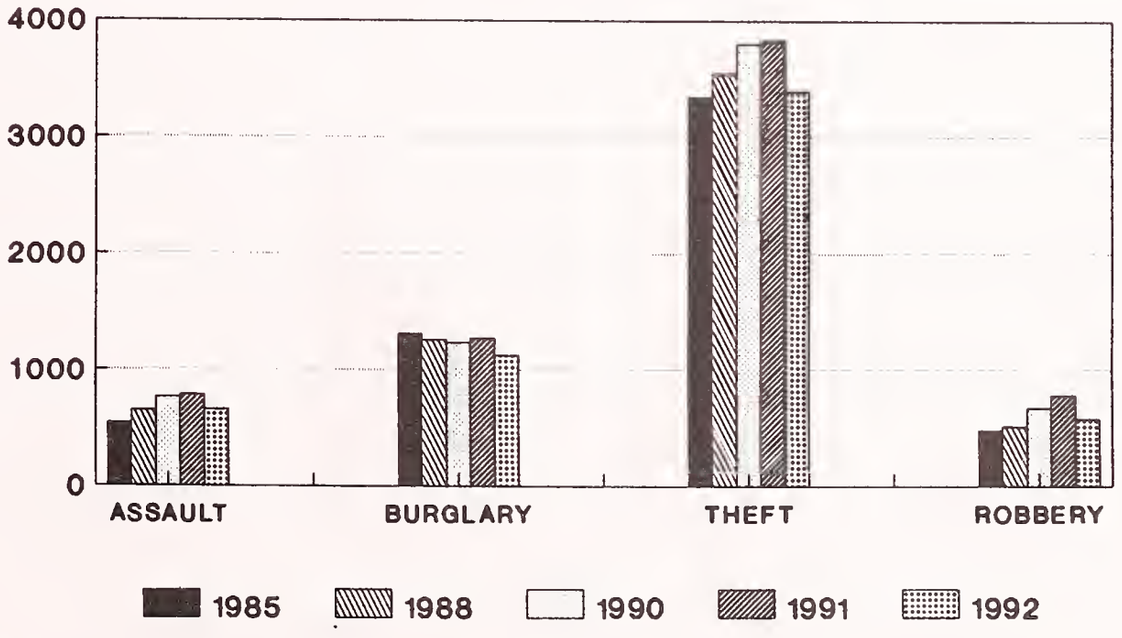
The rates of assault, larceny-theft, burglary and robbery all declined in the Joliet MSA in 1992 (where casino gaming was implemented in June of that year), as they did in the Alton MSA (gaming initiated in September, 1991) and in the Davenport-Rock Island MSA (Rock Island implemented casino gaming in March, 1992; Davenport implemented gaming in April, 1991).

CHART ONE
Alton, IL MSA
CRIME: 1985 through 1992



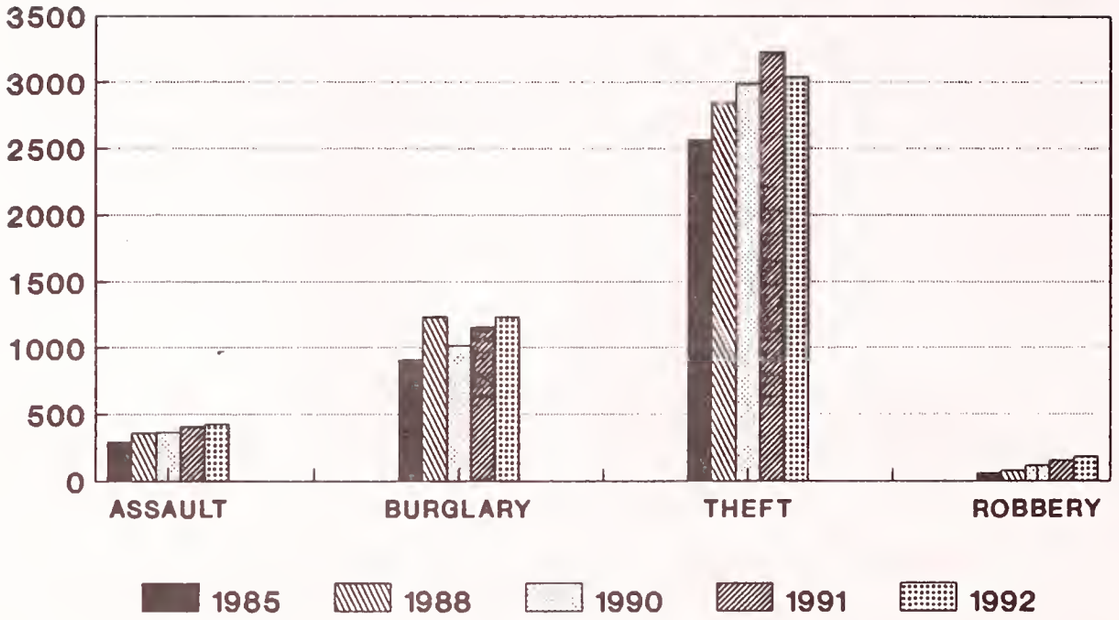
rate per 100,000 inhabitants
source: DOJ-Crime in United States

CHART TWO
JOLIET, IL MSA
CRIME: 1985 through 1992



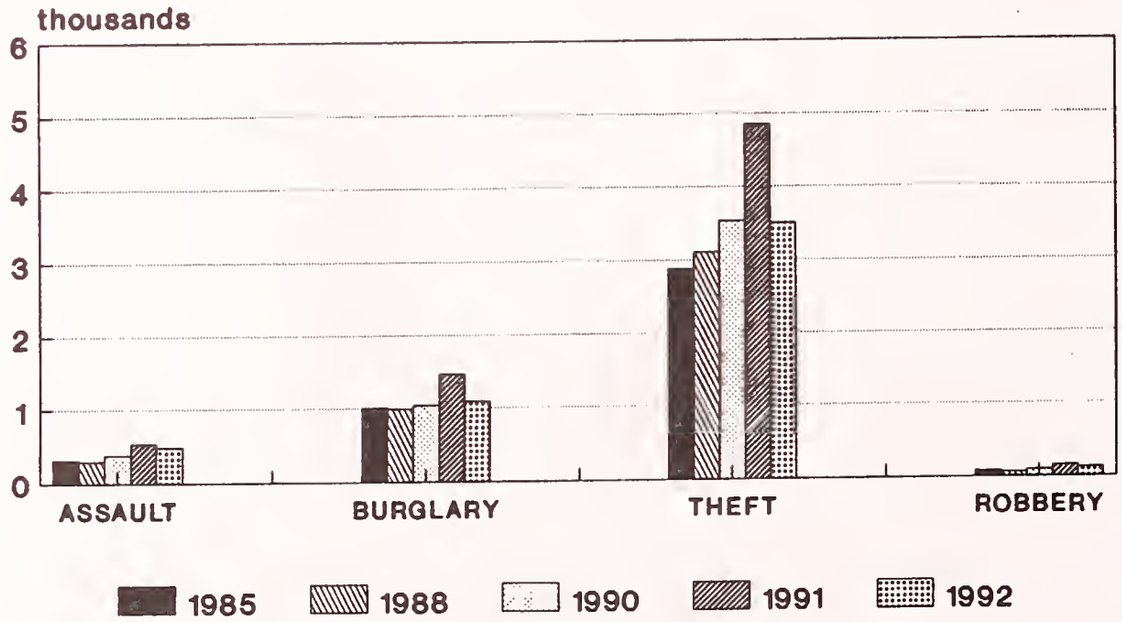
rate per 100,000 inhabitants
source: DOJ-Crime in the United States

CHART THREE
PEORIA, IL MSA
CRIME: 1985 THROUGH 1992



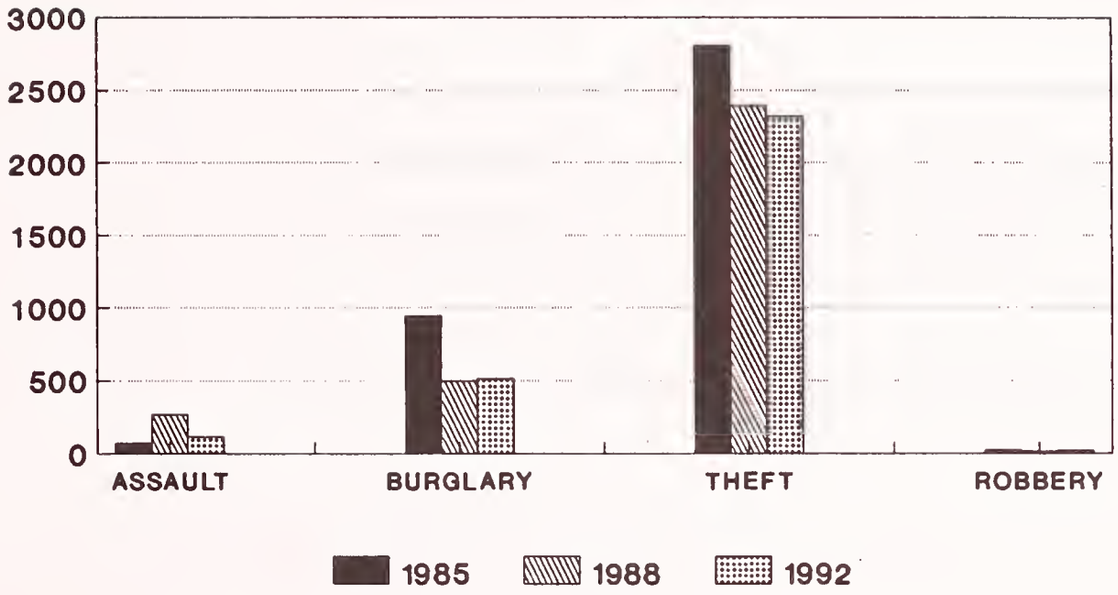
rate per 100,000 inhabitants
source: DOJ-Crime in the United States

CHART FOUR
ROCK ISLAND, IL/DAVENPORT IA MSA
CRIME: 1985 THROUGH 1992



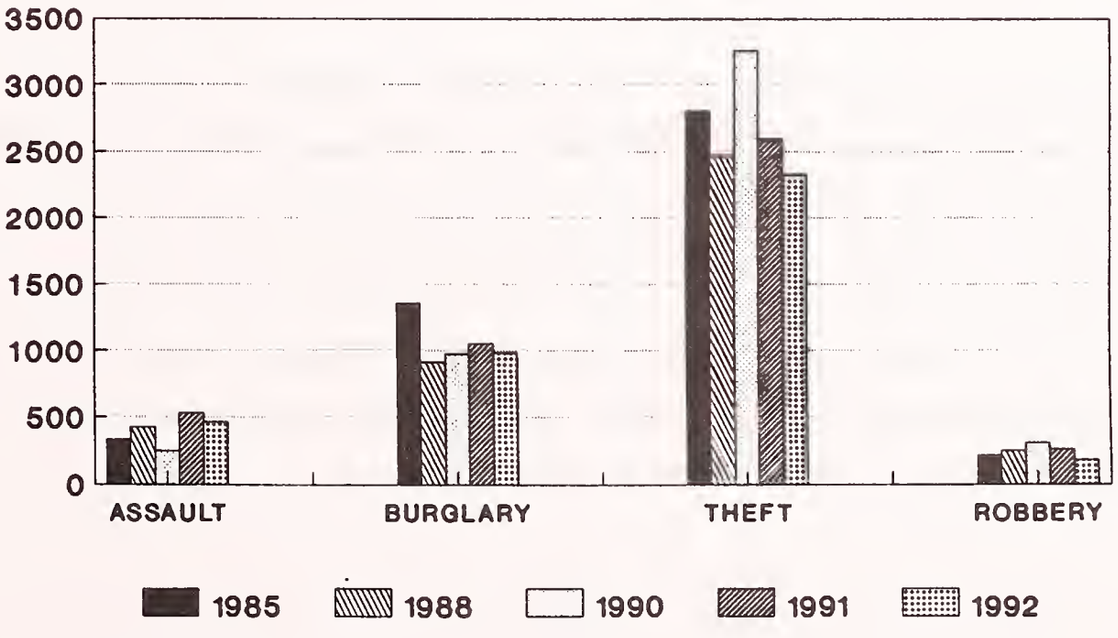
rate per 100,000 inhabitants
source: DOJ-Crime in the United States

CHART FIVE
DUBUQUE, IA MSA
CRIME: 1985 THROUGH 1992



1990, 1991 data unavailable
rate per 100,000 inhabitants
source: DOJ-Crime in the United States

CHART SIX
BOSTON, MA MSA
CRIME: 1985 THROUGH 1992



rate per 100,000 inhabitants
source: DOJ-Crime in United States

PART THREE: CONCLUSION

The Committee reviewed statistics that depict specific crime categories which can be measured and tracked over time. The data reviewed portray trends in crimes and criminal activity within specific sites that have implemented casino gaming.

Critics argue that insufficient time has passed within which accurate crime data could be collected and analyzed. The Committee believes that enough time has passed to analyze preliminary data that might illustrate any relationship between gaming and crime. Several water-based gaming facilities have been operating for over thirty months. Crime statistics are available which illustrate statistical trends since 1991. While there is certainly room for more research, the Committee believes that adequate data are currently available to initiate policy discussions on the issue of gaming's impact on crime.

Nevertheless, in order to sustain the contention that casino gaming attracts increased criminal activity, statistics should indicate an immediate and sustained relationship between gaming and crime. They do not.

The Massachusetts Attorney General correctly observed that there was an immediate and substantial increase in crimes recorded in Atlantic City after the implementation of legalized casino gaming.

> [T]he crime rate increased by twenty-five percent in the first year of legalized gambling (in Atlantic City).[19]

The Committee was encouraged to see, therefore, that a similar trends were not duplicated in municipalities recently implementing limited casino gaming. The Committee also believes, however, that data applicable to the gaming "hub" of Atlantic City must be viewed separately and distinctly from those applicable to Davenport, Dubuque, and Rock Island.

Atlantic City is not representative of the gaming industry. Its economy is primarily focussed on gaming, as are its destination facilities. While the casino industry is now constructing combination theme park/gaming facilities, Atlantic City casinos almost entirely offer gaming

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[19]Testimony of Attorney General of the Commonwealth of Massachusetts before the Joint Committee on Government Regulations on Bills Seeking the Expansion of Gambling, April 14, 1993.

venues, to the exclusion of broader entertainment. The average patron stays in Atlantic City for less than ten hours. The average patron visits Las Vegas for more than four days. Atlantic City and Las Vegas cater to separate clientele and markets, and are as distinct from each other as are Atlantic City and Davenport, Alton, or Peoria. Applying the Las Vegas *tourism* statistics to Atlantic City would be as inaccurate as applying Atlantic City gaming statistics to Iowa or Illinois water-based gaming facilities.

Furthermore, the gaming industry is crowd intensive, and subject to crimes and criminal activities inherent to large, public gatherings. In fact, increases in the Atlantic City crime statistics from 1970 through 1990 are not dissimilar from those recorded for Orlando Florida, the home of Disney World (**see Table Four**).

TABLE FOUR

CRIME INCREASE: 1970–1990

	Atlantic City	Orlando
Total Crime	157 %	335 %
Crim. Homicide	133 %	100 %
Forcible Rape	176 %	805 %
Robbery	85 %	443 %
Assault	445 %	414 %
Burglary	33 %	119 %
Larceny	253 %	193 %
Auto Theft	–46 %	344 %

Represents change in reported crimes.

SOURCE: Department of Justice

From 1970 through 1990:

- total crime in Atlantic City increased by 157 percent, while total crime in Orlando increased by 335 percent;
- incidence of auto thefts in Atlantic City decreased by forty-six percent, and increased in Orlando by 344 percent;
- incidence of forcible rape increased by 176 percent in Atlantic, and by 805 percent in Orlando;
- incidence of robbery increased by 85 percent in Atlantic City, and by 119 percent in Orlando.

Assault, robbery, and theft are not crimes specific to the gaming industry. They are crimes which occur in a diverse number of crowd-intensive settings, such as urban subways and suburban shopping centers. Incidents of assault, robbery, and theft are not, however, used as arguments against mass transportation or retail marketing. Mass transportation providers and large retail merchants accept the fact that crime is endemic to our society, and deal with it as a business expense, as do film exhibitors, hoteliers, restaurateurs, and casino operators.

Casinos and municipalities have cooperatively provided adequate security in communities throughout the mid-west. License-holders and operators must share the responsibility with the host community to fund and provide adequate public safety measures that insures the safety and comfort of community residents and facility patrons. Facilities must provide such services out of self interest. A crime-ridden casino will no sooner attract patrons than will a crime-ridden dinner-theater, or a crime-ridden department store.

TABLE FIVE

CRIME TRENDS*: 1991 THROUGH 1992

		Assault	Burglary	Theft	Robbery
Davenport	4/91	increase	decrease	decrease	decrease
Alton	9/91	increase	increase	increase	increase
Peoria	11/91	increase	increase	increase	increase
Rock Isl	3/92	decrease	decrease	decrease	increase
Joliet	6/92	decrease	decrease	decrease	decrease

Gaming implemented in denoted month.

**Represents increase/decrease in reported crimes.*

SOURCE: Department of Justice

Does gaming cause, or attract crime? If yes, crime statistics should rise, and continue to do so in communities that have legalized gaming. The data do not reflect such trends (**see Table Five**).

The Committee believes that there is no statistical evidence proving that the legalization and implementation of gaming in a community will cause an increase in the crime rate of the host municipality, or its greater surrounding area. It would be irresponsible to argue that the implementation of casino gaming causes a reduction in a community's level of crime. However, the Committee believes that is equally irresponsible to argue the reverse.

APPENDIX
STATEMENT OF ATTORNEY GENERAL L. SCOTT HARSHBARGER
to SENATE POST AUDIT AND OVERSIGHT COMMITTEE

Thank you Chairman Norton for the opportunity to submit this statement to your Committee which has conducted public hearings to determine the social and economic impact of expanded gambling.

In my testimony before the Government Regulations Committee I asserted that Massachusetts should not join the bandwagon of states seeking to solve their budgetary woes by expanding gambling. My position has not changed on this issue. Rather, it has been further bolstered in light of the overwhelming evidence of the destructive and costly effects of expanded gambling on the communities where it is located. The warning signs are all around us and the Commonwealth of Massachusetts should take heed lest it also fall victim to the effects of expanded gambling.

The Legislature is considering proposals for land-based and river-boat casinos and video poker machines, among other measures. However, these and other forms of legalized gambling have not proven to be the economic saving grace that other states hoped they would be. For example, William Eadington, Professor of Economics and Director of the Institute for the Study of Gambling and Commercial Gaming at the University of Nevada, Reno, states that Atlantic City's slow down in growth may be permanent as the result of over half of its casinos going through bankruptcy and the permanent closing of another. He also states that Iowa, which began river-boat casinos in 1991, has already experienced substantial attrition in its river-boat gambling industry.

With regard to video poker, there is overwhelming evidence that it is the "crack cocaine of gambling." Just two years after implementing video poker in the Canadian Province of Nova Scotia where 3,500 machines were in operation, the Province is now recalling 2,500 machines. Sergeant Paul Devaux, National Gaming Specialist for the Royal Canadian Mounted Police recounts stories of a husband who smashed several video poker machines with a sledge hammer because his wife had developed a gambling problem and a man who pled guilty to second degree murder as the result of a person being killed in his robbery attempt of a Mcdonald where he sought money to support his gambling problem. Additionally, many persons arrested in Nova Scotia for crimes of fraud such as forgery, embezzlement and larceny have asserted that gambling was the cause of their criminal activity.

The Nova Scotia experience clearly indicates that the expansion of gambling will also result in an increase in crime. This is supported by Edmond Talbot, Assistant Deputy Superintendent of Programs and Services at the Bristol County Sheriff's office who started a Gamblers Anonymous chapter in the North Dartmouth House of Correction. He is convinced that gambling problems result in increased crime. One North Dartmouth inmate who attends his G.A. meetings is currently serving time for an assault and battery he committed in a casino following his loss of a significant amount of money.

The strong evidence that increased gambling produces increased crime is not limited to situations involving the expansion of video poker. For example, Atlantic City experienced a significant increase in crime after it undertook its casino gaming initiative. Atlantic City Police Department statistics for 1990 are reported as showing that 67 percent of all crimes in Atlantic City were committed within the confines of the casinos. This is particularly shocking in that Atlantic City is touted as having the most stringent casino regulations in the country.

Gambling proponents would argue that the legalization of video poker will result in an elimination of the "gray" or illegal machines. However, a study by the National Institute of Law Enforcement and Criminal Justice entitled "Gambling Law Enforcement in Major American Cities" stated that increasing the number of legal gambling options has not been shown to reduce illegal gambling.

Similarly, experience elsewhere indicates that the increase of law enforcement personnel to combat crime will only be of limited assistance in deterring gambling-related criminal activity. For example, the police department for Central City, Colorado, which has a population of 350 and which increased its police force from two to ten officers, received more calls in the three month period of January through March 1992 (450) than they did the whole year prior to casino gambling being brought into existence (370). Atlantic City also greatly increased the number of its officers yet the crime rate has almost tripled since the inception of casino gambling.

The additional financial burdens upon the state in the form of court costs and incarcerations to combat increased crime must also be considered in determining any revenue gains which the Commonwealth hopes to achieve. The Commonwealth is being tempted by proposals to use legalized gambling as a means of raising revenue for harbor cleanup, education reform and to build a Megaplex. There is no question that revenue is needed for these initiatives. However, the Commonwealth should not mistake temptation for opportunity. The Commonwealth should not expand gambling.

REPORTS OF
SENATE COMMITTEE ON POST AUDIT AND OVERSIGHT
SEN. THOMAS C. NORTON, CHAIRMAN

- 1/94 Toward Gaming Regulation, Part I: Crime. S.100
- 12/93 A Performance Review of the Massachusetts Office of Business Development. S.1872
- 11/93 The Cost of Innovation: The D.P.U.'s Purchased Power Regulations of 1986. S.1820
- 11/93 A Review of Transitional Bilingual Education in Massachusetts. S.1810
- 9/93 Toward Expanded Gaming: A Review of Gaming in Massachusetts. S.1743
- 8/93 A Program and Performance Audit of the Massachusetts Office of International Trade and Investment. S.1717
- 5/93 Workers' Compensation in Massachusetts: Is it Temporarily or Totally Disabled? S.1500
- 1/93 A Review of DMH Policy Planning and Implementation During the Closing of Northampton State Hospital. S.1485
- 12/92 A Review of Faculty Workload Policies and Faculty Workloads at the University of Massachusetts at Amherst. S.1785
- 10/92 Policy Brief: The Massachusetts Division of Insurance.
- 6/92 Massachusetts Public Libraries in Crisis: The Burden of Non-Resident Lending and Borrowing. S.1635
- 5/92 Paying for Hospital Care In Massachusetts: The Competition Experiment. S.1500
- 4/92 The Decision of the Massachusetts State Lottery to Offer 'Lottery-By-Phone'.S.1480
- 11/91 Lottery Revenue Growth: Prospects for the Future. S.1720
- 6/91 Controlling State Employee Health Care Costs. S.1610
- 4/91 An Analysis of the Massachusetts Executive Branch Workforce. S.1490
- 2/91 Early Retirement: Designing and Implementing an Incentive Program in Massachusetts. S.1361

Commonwealth of Massachusetts

MASSACHUSETTS SENATE

The Honorable William M. Bulger
President of the Senate

TOWARD GAMING REGULATION:
Part II: Problem Gambling, and Regulatory Matters

(Senate 1590)

A Report of the

SENATE COMMITTEE ON POST AUDIT AND OVERSIGHT

Sen. Thomas C. Norton, Chairman

Sen. W. Paul White, Vice-Chairman
Sen. Linda J. Melconian
Sen. Robert A. Havern
Sen. Mark C. W. Montigny
Senator Robert C. Buell
Senator Jane M. Swift

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March 1994

The Commonwealth of Massachusetts

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March 15, 1994

Edward B. O'Neill
Clerk of the Senate
State House, Room 208
Boston, MA 02133

Dear Mr. O'Neill:

Pursuant to M.G.L. Chapter 3, Section 63 as most recently amended by Chapter 557 of the Acts of 1986, the Senate Committee on Post Audit and Oversight respectfully submits to the full Senate the following report: Toward Gaming Regulation, Part II: Problem Gambling, and Regulatory Matters.

This report is based on research by the Senate Post Audit and Oversight Bureau. It examines research and prevalence data on problem gambling in Massachusetts, and gaming regulatory issues, including statutory and administrative structure.

Respectfully filed by the Senate Committee on Post Audit and Oversight:

Senator Thomas C. Norton
Chairman

Senator W. Paul White
Vice-Chairman

Senator Linda J. Melconian

Senator Robert A. Havern

Senator Mark C. W. Montigny

Senator Robert C. Buell

Senator Jane M. Swift

EXECUTIVE SUMMARY

Massachusetts is an active participant in the gambling industry, sanctioning legalized wagering on a variety of venues and annually appropriating as much as $10 million for Lottery advertising. However, Massachusetts has done little to address problem gambling.

- The Department of Public Health (DPH) has never commissioned or conducted a prevalence survey of problem gambling in Massachusetts.

- The Commonwealth appropriates no state tax dollars, and less than $250,000 in unclaimed lottery prize monies for education and treatment of problem gambling.

A 1975 survey by the National Gambling Commission concluded that there were between six million and nine million problem gamblers in the country, 0.77 percent probable compulsive gamblers, and 2.33 percent potential compulsive gamblers.

Data specific to Massachusetts were not available until the late 1980's, when a state-by-state analysis of showed that 2.1 percent of Massachusetts residents were problem gamblers, and another 2.3 percent probable pathological gamblers. These percentages were similar to those for New York (2.8 percent problem gamblers), California (2.9 percent), New Jersey (2.8 percent), and Maryland (2.4 percent).

Applied to the current Massachusetts population census, the research would indicate that between 1.8 and 2.1 percent of Massachusetts residents are either problem or potential pathological gamblers.

Problem gambling treatment is facilitated through self-help groups, and psychoanalytic methods. Fewer than ten percent of persons seeking assistance from self-help groups remain free from gambling. Psychoanalytic treatments range from individual and family counseling to drug therapy, however treatment facilities are relatively new and, as such, there are few studies gauging their success rates and methods. (Although the first such program [Brecksville Ohio] recorded a success rate of fifty-six percent.)

Problem gambling has only recently been addressed by the Commonwealth. DPH was charged in 1987 with *expending revenue* for a compulsive gamblers program, but not with designing or implementing a treatment program. DPH re-directs unclaimed Lottery prize monies to the Massachusetts Council on Compulsive Gambling and the Mount Auburn Center for Problem Gambling. The Council also receives $100,000 per year from Suffolk Downs.

Although there is no shortage of anecdotal evidence supporting the condition, few statistical analyses of problem gambling have been conducted. There are no data to support the contention that expanded gambling will cause an exponential increase in problem gambling. Nor are there data showing that gaming venues "cause" problem gambling. Three of the five most popular venues of choice for problem gamblers in Massachusetts are currently illegal. Problem gamblers gamble regardless of the legal status of a venue. An expansion of gaming in Massachusetts may cause a marginal increase in problem gambling. However this increase may just as well occur in response to the expansion of gaming opportunities in Rhode Island, Connecticut, New Hampshire, or New York. Massachusetts residents can not be insulated from gaming opportunities.

The decision to expand gaming in Massachusetts is similar to the decision to allow liquor stores

near the New Hampshire border to open on Sundays and holidays. That decision was based in economic reality, and not with regard to a social condition (problem drinking) that may, or may not, be exacerbated by the policy. The decision to expand gaming in Massachusetts should be based upon similar grounds.

The Committee believes that the Commonwealth must make every effort to provide services and treatment to those who are unable to control their compulsion, just as the state regulates other social activities which may aggravate *compulsive or addictive* behaviors. The Commonwealth should make every effort to reconcile and make consistent its policy on gambling as it has attempted to make consistent its policy on drinking.

Just as the extent and depth of problem gambling requires state attention, the industry that has given rise to the very subject also requires investigation, governance, and regulation. While the New England gaming industry has exploded over the past twenty years the gaming regulatory structure has remained relatively static. Twenty years ago, gaming oversight in Massachusetts was provided by the state Racing Commission and the state Lottery Commission, as it is today. Both agencies work independent of each other, and have made no attempt to coordinate rules, regulations, or policies.

Massachusetts is not alone in its fragmented approach to gaming regulation. State governments generally initiate and implement gaming policy without regard to an overall plan. Nevada and Connecticut, which have created gaming policy boards, are two exceptions to this rule. And while most states do not have gaming policy boards, many have established regulatory agencies. These bodies regulate either skilled or unskilled venues. Few states merge the oversight of skilled games and unskilled games.

Many states have created gaming commissions. Most were created one year prior to the implementation of casino gaming. Gaming commissions regulate land or water-based casino gaming, establish regulatory strictures, enforce statutory compliance, and render licensure decisions. They are composed of gubernatorial appointees, whose policy directives are implemented by a subordinate agency, a state gaming board.

Massachusetts does not have a comprehensive gaming regulatory body. The Lottery Commission, which oversees unskilled gaming, is not a policy making body. It meets irregularly, rarely in full attendance, and does not vote to approve policy changes, or request policy research. Lottery policy is initiated and implemented by the state Treasurer and the Lottery's executive director. The Massachusetts State Racing Commission is a policy making body that meets weekly, and votes on policy, however its oversight is restricted to the state's four pari-mutuel facilities.

The Committee believes that gaming regulation in Massachusetts must be updated and streamlined. The Commonwealth is attempting to regulate one of the fastest growing sectors of the economy with an outdated structure.

The Commonwealth does not have an agency that can plan the state's gaming policy. Policy decisions that favorably affect one segment of the industry may have an unfavorable impact on another segment. The Committee believes that the Commonwealth must develop a state-wide gaming policy board that would define the state's overall gaming policy, and its gaming advertising policy.

Decisions about the state's gaming mix should remain independent from decisions about the

state's gaming regulatory structure. The Committee believes that sound regulation is best maintained when a degree of tension exists between an industry and its regulator.

As such, the state should also create a state gaming commission to develop, implement, oversee, and regulate all skilled gaming in the Commonwealth, with the exception of pari-mutuel racing. This commission should be made up of three full-time commissioners, appointed by the governor, who devote their full attention and duties to the development, regulation, and oversight of casino gaming, and electronic wagering in Massachusetts.

It should be made clear that no applicant for a gaming license in Massachusetts has any right to such a license. Any state gaming license that is granted by the state is revocable by that same state.

RECOMMENDATIONS

1) *That the Massachusetts Department of Public Health fund a comprehensive study to measure 1) the prevalence of compulsive, obsessive behaviors in Massachusetts; 2) the prevalence of problem gamblers in Massachusetts; 3) the prevalence of underage problem gamblers in Massachusetts; 4) the social cost of problem gambling in Massachusetts. Said study should also suggest an educational and treatment program applicable to problem gambling in Massachusetts, and include and define the target population to be served by such a program, and outline the required resources.*

2) *That the Massachusetts Department of Public Health, in conjunction with the Massachusetts Council on Compulsive Gambling and the Mount Auburn Center for Problem Gambling, develop and coordinate a state-wide problem gambling education and treatment program. All monies for this program should be funded through the Department of Public Health, including unclaimed prize money from the State Lottery, and revenues generated from racing and gaming facilities throughout the state.*

3) *That the State Lottery annually transfer to the Department of Public Health five percent of their annual advertising budget, to be used to fund a state-wide problem gambling education and treatment program. These monies should be in addition to those currently appropriated from the Lottery's unclaimed prize monies.*

4) *The Commonwealth should establish a Massachusetts Gaming Policy Board, composed of the Lieutenant Governor of the Commonwealth, the Attorney General, the state Treasurer, the secretary of Consumer Affairs, the state Racing Commissioner, the executive director of the Massachusetts state Lottery, the Secretary of Public Safety, and the commandant of the Massachusetts State Police.*

5) *The Commonwealth should establish a Massachusetts State Gaming Commission.*

This report concludes the Senate Committee on Post Audit and Oversight's three-part series on the economic and social ramifications of the gaming industry. The first document, Toward Expanded Gaming: A Review of Gaming in Massachusetts (S.1743) was published in September 1993; the second, Toward Gaming Regulation, Part I: Crime (S.100) was published in January 1994.

FOREWORD

This report is the final chapter in the Senate Committee on Post Audit and Oversight's three-part series on the economic and social ramifications of the gaming industry. These documents are based upon information and testimony compiled during the Committee's eight part public hearing series that was held last year. Testimony was submitted by law enforcement officials, and principals of the gaming industry representing land, and water-based casino gaming; video wagering and electronic gaming; thoroughbred, standard-bred, and greyhound dog pari-mutuel racing; the state lottery; Indian gaming affairs; and advocates for problem gambling education and treatment programs.

Gaming has become one of the most widely discussed public policy issues in the state. The subject has been the focus of much legislative debate, and media attention. I dare say that, over the past three years, only the issue of health care has received more sustained public debate in Massachusetts than has the subject of gaming.

So where do we go from here?

Most long-time observers of the subject agree that Massachusetts residents will be impacted by expanded gaming in the very near future. Expansion may come in the form of an unregulated Indian casino; electronic wagering at the state's pari-mutuel racing facilities; the development of off-track betting; or the development of regulated casino gaming in Massachusetts, or in an neighboring state on the Massachusetts border.

We do have a choice, however. We can wait, watch what happens in Rhode Island, Connecticut, New Hampshire, and New York, then react to their initiatives and be captive to their successes.

Or we can be proactive, seize the initiative, and create the strong regulatory structure outlined in this report. I believe that this represents the necessary first step that the Commonwealth must take if it is to remain the regions economic leader.

Gaming is a choice. If gaming is "bad", then kill it. If gaming is immoral, then shut it down across the board. Shut down charitable gaming Vegas Night events. Shut down Bingo. Terminate the Lottery, and close the state's pari-mutuel race tracks. Don't rationalize your prejudice. Don't say the Lottery is O.K. because it is well-regulated and keeps down the local tax burden, but blackjack is gambling and should be prohibited. Gambling is gaming is betting.

It all boils down to economic choice. The choice to spend $150 on a dinner in a nice restaurant, or $200 on theater tickets, or spend $500 on a suit, or $25,000 on a car. The choice to spend $5 on a table game. Are these examples of good or bad choices? They may be either, but they should be consumer choices.

I think that a well-planned, carefully regulated casino gaming industry could be up and running within the next two to three years. This industry could generate $1.5 billion in capital investment, create over twenty-thousand jobs, and annually produce $300,000 - $400,000 in new state revenue. A properly leveraged, competitively bid casino license could be used as an economic catalyst for a municipality which chooses to be a host community.

This can all be done in the light of day, without corruption, without an increase in crime, and without inflicting injury to competing entertainment venues. Our first step should be the creation of a state gaming regulatory body that could logically and prudently develop the guidelines and regulatory controls necessary for the future implementation of expanded

gaming in Massachusetts.

The Massachusetts State Lottery works because it is well regulated. Expanded gaming could be overseen with no less forethought and diligence.

I would like to thank the members of the Committee, the staff of the Bureau, and all those who contributed to the preparation and completion of this report.

Senator Thomas C. Norton, Chairman

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INTRODUCTION

The Senate Committee on Post Audit and Oversight conducted a series of public hearings in 1993 to examine the social and economic impacts of the gaming industry. In September 1993 the Committee issued its first report in the wake of the hearings titled Toward Expanded Gaming: A Review of Gaming in Massachusetts (S.1743). This report, which focussed primarily on economic issues, was followed in January 1994 by Toward Gaming Regulation: Part I, Crime (S.100), which examined the relationship between the introduction of a gaming facility and subsequent levels of crime in and around the host community. This document, Toward Gaming Regulation: Part II, Problem Gambling, and Regulatory Matters, is the third and final document that the Committee will issue as a result of its public hearing series.

This report is presented in two parts, both contained within the documents title, which are each deserved of great study and consideration. Problem gambling is a societal problem that the Commonwealth must deal with now, whether or not the decision is made to expand into new gaming venues.[1] The gaming industry is one of the fastest growing sectors of the entertainment industry. As such, its impact will be felt in Massachusetts regardless of where our citizens travel to place their wagers. A state-regulated casino in Providence, Rhode Island will impact Massachusetts residents no less than will an unregulated Indian casino in New Bedford, or a riverboat casino in Springfield. In this report the Committee reviews the data that depicts the prevalence of problem gambling in society today, and reviews strategies that states are using to combat this phenomenon.

The Committee also examined, and reports on regulatory matters that are germane to the industry today. Gaming regulations are complex and powerful vehicles. Regulations have been credited with keeping organized crime out of the regulated casino industry, and with maintaining a reliable flow of revenue into state and local tax coffers. Although the time frame is debatable, most knowledgeable analysts of the industry predict that expanded gaming is coming to Massachusetts. So that the Commonwealth can control, and be prepared for its arrival, the Committee believes that regulatory matters need to be addressed now. This document presents the Committee's research into this area, and contains recommended actions that the Commonwealth now take to establish a Massachusetts gaming policy, and in control

[1]The inability to control one's gambling habit has variously been called compulsive gambling, excessive gambling, and problem gambling. The Committee has chosen to utilize the latter term throughout this report as it best represents the disease's many facets.

of the situation, and the industry.

The Committee would like to extend its sincere appreciation to the many individuals who provided it with assistance and documentation and responded to its many requests, including Michael D. Cox, National Indian Gaming Commission; Clyde T. Turner, Michael Sloan, and Michael Rumboltz of Circus Circus Enterprises, Inc.; Sheldon G. Adelson, and David S. Fine of the Interface Group; Richard Bronson, New City Development; Mark Grossman, Las Vegas Hilton; John Giovenco, then of ITT Sheraton Corporation; Andrew Tottenham, Tottenham and Associates; Robert Babcock, Video Lottery Technologies; John Kerner, Massachusetts Gaming Association; Paul Palmer, International Technical Systems of New England; Guy Snowden, G-Tech; Richard Currie, Williams Gaming; William G. Rickett, Dynamo Corporation; William J. Tregor, Jr., Betstar, Ltd.; Ken Kirchner, Pennsylvania Racing Commission; Mark Laino, Illinois Racing Board; Robert Hutchinson, Jr., Massachusetts Racing Commission; John Daily, New York Racing and Wagering Board; George Carney, Raynham-Taunton Dog Track; Robert O'Malley, New Suffolk Downs Corporation; Paul Sarkis, Foxboro Park and Wonderland Greyhound Park; Joseph Carney, Rockingham Park; Martin Maline, National Horsemen's Benevolent and Protective Association; Louise Coleman, Greyhound Friends, Inc.; Charles Bishop, Massachusetts Standardbred Breeders and Owners, Inc.; Bernard Flynn, Massachusetts Thoroughbred Breeders Association; John Sorrentino, Massachusetts Greyhound Association, Inc.; Eric Turner, Massachusetts State Lottery; James Moody, Federal Bureau of Investigation; L. Scott Harshbarger, Attorney General of the Commonwealth; Sgt. Thomas Foley, Massachusetts State Police; Robert Wright; Dennis McCarty, Department of Public Health; Thomas Cummings, Massachusetts Council on Compulsive Gambling; Alan Meisler, The Compulsive Gambling Therapy Center; Howard Shaffer, Ph.D., Zinberg Center for Addictive Studies at Harvard University; Robert Goodman; and Rachel A. Volberg, Ph.D. of Gemini Research, Northampton MA.

PART ONE: PROBLEM GAMBLING

Massachusetts is an active participant in the gambling industry. The Commonwealth has sanctioned legalized wagering on pari-mutuel racing, bingo, Las Vegas Night charity promotions, and the State Lottery. The Commonwealth is also an active promoter of the gambling industry. The Commonwealth has annually appropriated as much as $10 million for the State Lottery's advertising budget.

Despite its advocacy, Massachusetts has done little to address a concern often associated with gaming: problem gambling. Problem gambling is a phenomenon whereby individuals become "dependent" upon the act of gambling in much the same way that individuals become dependent upon alcohol or nicotine. The "action" of gambling becomes more important than the outcome of the event upon which the wager is made.

Little substantive data has been compiled to define the problem of problem gambling in society today. The Massachusetts Department of Public Health has not commissioned or conducted any field study to document the prevalence of problem gambling in Massachusetts, and the one state-funded treatment center, the Mount Auburn Center for Problem Gambling, does not have the financial capacity to track its patients.

Nevertheless, the condition of problem gambling is now recognized as one which must be confronted, especially insofar as it is exacerbated by activities that are sanctioned, and encouraged, by the state.

According to the Massachusetts Council on Compulsive Gambling, problem gambling is the only social problem whose victims look within the problem for a solution to their problems. In other words, problem gamblers turn to gambling to solve their gambling problems. This circular logic generally results in the gambler deepening his or her indebtedness as new gambling debts are incurred in futile attempts to win money to pay off past gambling debts. Consequently, the social image of the problem gambler is now similar to the image formerly associated with the problem drinker: a weak person with little self-control.

Massachusetts has paid little official attention to the subject of problem gambling. Since fiscal year 1990, the Commonwealth has annually appropriated less than $250,000 for education and

treatment of the condition.[2] Ironically, unclaimed Lottery prize monies are used as the funding source for the problem gambling programs that the Commonwealth has funded. No state tax revenues are directed into problem gambling education and treatment programs.

Measuring the Problem

In 1975 the National Gambling Commission asked the University of Michigan Survey Research Center to "conduct a detailed survey of American gambling practices and attitudes."[3] The Center subsequently surveyed 1,736 persons across the country and compiled data on betting participation by demographic characteristics.

According to the collected data, sixty-one percent of the sample population admitted gambling on one type of activity or another, ranging from legal lottery wagers to illegal sports bets. Seven percent stated that they had placed only legal wagers (i.e. state lottery, pari-mutuel racing) while eleven percent said that they had gambled on illegal venues.

Legal wagers were placed on such commercial enterprises as state lotteries, pari-mutuel facilities, and casinos, while illegal betting centered around sports cards and the street number. Gambling preferences were geographically skewed, with:

- a greater percentage of inhabitants of the Northeast gambled than their counterparts in the South;
- residents of large urban areas were more likely to gamble than residents of small cities;
- residents within fifty miles of major urban areas were more likely to place illegal wagers than people living farther away from cities.

The Commission study touched on the subject of problem gambling, stating that:

> estimates of the number of compulsive gamblers in the United States are few and of doubtful authority. The most commonly cited one is that of Gamblers Anonymous which claims that there are between six million and nine million. The organization cites no basis for this figure; but in the absence of any more credible estimate it has achieved wide currency. No estimate exists of the extent to which widespread legalization would affect this number.[4]

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[2]Budgetary line item 4512-0225.

[3]Commission on Review of National Policy Toward Gambling, The Stakes are high, document number 19224, Washington D.C. 1975.

[4]Final report, pp. 72,73.

The Commission included a "personality-oriented section (in the survey) geared to elicit responses that would indicate whether an individual was likely to become a compulsive gambler." A clinical analysis was subsequently conducted to sort out the responses of those indicated as having a probable gambling problem.

The Commission subsequently estimated that 0.77 percent of the sample population could be classified as "probable compulsive gamblers, with another 2.33 percent as potential compulsive gamblers." Significantly more men were classified as probable or potential problem gamblers (1.1 percent and 2.7 percent, respectively) than women (who ranked 0.2 percent and 2 percent, respectively).

The Commission survey did not examine the betting habits or the prevalence of compulsive gambling of residents of individual states, with the sole exception of Nevada. In fact, data specific to Massachusetts were not available until the late 1980's, when Policy Research Associates of New York conducted a state-by-state analysis of problem gambling under a National Institute of Mental Health (NIMH) grant. These data, compiled along with data specific to California, Iowa, Maryland, New Jersey, and New York, showed that 2.1 percent of Massachusetts residents scored as problem gamblers, and another 2.3 percent scored as probable pathological gamblers (the latter being a clinical diagnosis).[5]

The Policy Research Associates-NIMH study utilized the South Oaks Gambling Screen, a twenty-item scale derived from the diagnostic criteria for pathological gambling published in the American Psychiatric Association's Diagnostic and Statistical Manual III, (similar to the Screen found in Appendix I). The South Oaks Gambling Screen was constructed to allow for drawing statistical inferences, and relating the results to the greater adult population of the state.

The surveys, which included between 750 and 1,250 persons in each state, were conducted between 1986 and 1990. Persons answering "yes" to three of the Screen's twenty questions were classified as *problem gamblers*, while *probable pathological gamblers* answered "yes" to five or

[5]NIMH Grant (MH-44295), Rachel Volberg, Ph.D. principal investigator. Volberg now heads Gemini Research of Northampton, MA.

more questions.[6]

California, New York and New Jersey residents were identified as having the highest percentage of problem gamblers, while Massachusetts residents were identified as having the highest percentage of probable pathological gamblers. Iowa, which was the only mid-western state analyzed, listed the lowest percentage of problem and probable pathological gamblers. (See **Table One: Prevalence Rates of Gambling in Six States.**)

TABLE ONE

PREVALENCE RATES OF GAMBLING IN SIX STATES

State	Population over 18	Sample Size	Problem Gamblers	Pathological Gamblers
NY	12.8 M	1,000	2.8%	1.4%
CA	19.9 M	1,250	2.9%	1.2%
NJ	5.7 M	1,000	2.8%	1.4%
MD	2.9 M	750	2.4%	1.5%
MA	4.2 M	750	2.1%	2.3%
IA	2.9 M	750	1.6%	0.1%

source: Gemini Research

The study attempted to determine differences between the population in general and those persons who were identified as problem or probable pathological gamblers. The researchers found that:

- While males were forty-three percent of all respondents, they were seventy percent of those defined as problem and probable pathological gamblers;
- twenty-six percent of the sample was under the age of thirty, thirty-seven percent of those identified as problem and probable pathological gamblers were under thirty;
- eighteen percent of the sample was non-white, thirty-six percent of those identified as problem and probable pathological gamblers were non-white;
- eleven percent of the sample had not finished high school, while twenty-one percent of those identified as problem and probable pathological gamblers had not finished high school;
- fifty-five percent of the sample was married, as were forty-three percent of those identified as problem and probable pathological gamblers;

[6]Volberg, Rachel A., "Estimating the Prevalence of Pathological Gambling in the United States," Gambling Behavior and Problem Gambling, W.R. Eadington & J.A. Cornelius (eds), Reno: University of Nevada Press, 1993.

- five percent of the sample stated that they had wagered very often during the past year, as did thirty-four percent of those identified as problem and probable pathological gamblers.

The researchers concluded that:

> there has been for some time a general consensus among researchers that increasing the availability of gambling opportunities will eventually lead to an increase in problem gambling. The data from the NIMH-funded surveys are the first non-clinical evidence that there may indeed be a link between the availability of wagering opportunities and the prevalence of pathological gambling. Problem gambling is a greater problem in those states where legal wagering has been available for some time. Problem and pathological gamblers are significantly more likely to be men under the age of thirty, to be non-white, and to have lower education than the general population.

The NIMH funded study further analyzed the demographics of gambling. The researchers found that lower income pathological gamblers were younger than high income pathological gamblers, had "far lower" levels of education, and were less likely to be married. The researchers also found that higher income pathological gamblers were more likely than low income pathological wagerers to be frequent bettors, and were more likely to "have been criticized by family and friends for their gambling and to have argued with others about their gambling."[7]

Researchers found that higher income pathological gamblers were more likely to be highly educated white males whose gaming habits had damaged interpersonal relationships, while lower income pathological gamblers were less likely to be white, or male, and had "noticeably lower levels of education."[8]

Other studies reviewed by the Senate Committee on Post Audit and Oversight portrayed similar profiles of the "typical" problem gambler. These studies found that males were more likely to be problem gamblers than females; ethnic groups more likely to be problem gamblers than white persons of western European ancestry; and urban residents more likely to gamble than their counterparts in smaller, less dense communities.

Applied to the current Massachusetts population census, the research conducted by the National

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[7]Volberg, Rachel A., Steadman, Henry J. "Accurately Depicting Pathological Gamblers: Policy and Treatment Implications," Journal of Gambling Studies, Winter 1992, p. 401.

[8]Volberg and Steadman, p. 407.

Gambling Commission and Policy Research Associates-NIMH would indicate that between 1.8 and 2.1 percent of Massachusetts residents are either problem or potential pathological gamblers. This is particularly deserved of attention, in light of the state's active role in the gaming industry.

Treating The Problem

Many problem gambling treatment programs revolve around two basic tenets: abstinence from gambling, and restitution of gambling related debts. The shared community of a self-help group is also generally encouraged as part of the overall treatment plan.

There are two basic approaches to treating problem gambling in the United States: self-help groups, and psychoanalytic methods. Self-help groups are usually so-called "twelve step" programs, and are aimed at the gambler and his or her family. These groups, such as Gambler's Anonymous, Gam-Anon, and Gam-A-Teen, are generally free of charge, yet have relatively low "success rates." Fewer than ten percent of persons seeking assistance from self-help groups remain free from gambling one year after entering the program.[9]

Problem gambling treatment facilities were, until the 1970's, primarily funded and provided by Gamblers Anonymous, a multi-step self-help organization that is similar in philosophy to Alcoholics Anonymous. Gamblers Anonymous (GA), which caters mainly to higher income persons, has seen rapid development in the past few decades. Originally established in 1957, GA had sixteen chapters around the United States in 1960, and six hundred chapters by the late 1980's.[10] In recent years many substance abuse treatment centers have developed problem gambling treatment programs. However, these programs also cater mainly to a higher income clientele.

Psychoanalytic treatments range from individual and family counseling to drug therapy. Most psychotherapeutic treatments place abstinence from gambling at the center of their programs. These gambling treatment facilities are relatively new and, as such, there are few studies gauging their success rates and methods.

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[9]Volberg, Rachel A., Establishing Treatment Services for Pathological Gamblers in Manitoba, Report to the Manitoba Lotteries Foundation, 8 June 1993, p. six.

[10]Volberg and Steadman, 1992, p. 408.

The first problem gambling treatment program was established in 1972 by the Veteran's Administration at Brecksville, Ohio. This program, one of the few to publish outcome data on its effectiveness[11], recorded a success rate of fifty-six percent (of participants who reported abstinence from gambling eighteen months after leaving the program).

Many substance abuse treatment programs now offer in-patient treatment for problem gamblers. These programs are generally covered by omnibus insurance carriers.

Additionally, many out-patient clinics have begun focussing on problem gambling. Out-patient programs are now operating in California, Connecticut, Florida, Iowa, Maryland, Massachusetts, Minnesota, New Jersey, and Pennsylvania, and balance therapy with the various forces that affect their compulsion. Whereas in-patient facilities re-direct behavioral impulses with artificial strictures, persons receiving out-patient treatment must exercise constant and immediate self-control.

Out-patient treatment programs are constructed upon several levels of assistance, including individual therapy, family counseling, marital counseling, and group therapy. Typically, programs run for approximately six months. According to practitioners interviewed by the Committee, out-patient treatment centers can realize success rates of up to seventy percent.

Experts caution that statistics applicable to gamblers in treatment programs are not representative of gamblers outside of treatment programs. Persons being treated for problem gambling have a demonstrated motivation for achieving and sustaining abstinence from gambling. Experts also state that there is very little information on problem gambling recidivism rates.

Problem gambling is, however, known to be a cyclical condition. In fact, approximately forty percent of persons identified as problem gamblers are generally inactive problem gamblers. That is to say, problem gamblers move in and out of the active phase of their condition. While "once a problem gambler, always a problem gambler" may be accurate, "once a problem gambler, always gambling" is not.

Most of the problem gambling treatment centers in the United States structure their treatment

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[11]Volberg, Establishing Treatment Services..., p. 8.

around individual and group psychotherapy. As such, staffing levels often include a psychiatrist, several psychologists, social workers, and peer counselors.

The treatment of problem gambling in other countries tends more towards "behavioral orientation" that is based on the premise that pathological behaviors are learned, and, therefore, subject to being "unlearned." International treatments include chemical aversion therapy, cognitive-behavioral therapies (using stimulus control and covert sensitization), behavioral therapies (aversive therapy, imaginal desensitization, relaxation therapy, and brief or prolonged exposure therapy). According to published reports,

> researchers appear to have established that "the arousal elimination factor" was the major cause for change in their clients gambling behavior rather than the link to stimuli associated with gambling. Imaginal desensitization thus compares favorably with the more prolonged therapies reported on in the United States."[12]

Treatment experts have written that although treatment centers generally cater to higher income pathological gamblers, facilities should incorporate treatment modalities which better suit lower income gamblers, as this sub-group must contend with "different, and possibly more frequent life stressors."[13] Accordingly, treatment programs should emphasize different goals, use different methods, and utilize staffing mixes that address the needs of all income strata of problem gamblers.

The Massachusetts Response to Problem Gambling

Problem gambling has only recently been addressed by Massachusetts state government. In 1985, the state Legislature directed the Executive Office of Human Services to "make an investigation and study relative to the feasibility of establishing a program for the treatment and rehabilitation of compulsive gamblers."[14] The study reviewed general statistics and information, and recommended that Massachusetts "assume a leadership role" in the issue of problem gambling through "funding for information, treatment, training, research, and evaluation" to be paid for with up to $750,000 in unclaimed Lottery prize monies.[15]

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[12]Ibid, p. 10.

[13]Volberg and Steadman, 1992, p. 410.

[14]Commonwealth of Massachusetts, Great and General Court, Acts and Resolves of 1985 - Resolves, Chapter Eleven.

[15]Office of Health Policy, Executive Office of Human Services, Pathological Gambling: Report and Proposal, 1986, p. 10.

In response, the Department of Public Health (DPH) was charged in 1987 with *expending revenue* for a compulsive gamblers program, but not with designing or implementing a problem gamblers treatment program.[16] Consequently, DPH now re-directs unclaimed Lottery prize monies to the Massachusetts Council on Compulsive Gambling and the Mount Auburn Center for Problem Gambling. This allocation, which reached $515,000 in 1990, currently averages $230,000 per year. (The Council also receives $100,000 per year from Suffolk Downs, which is channelled through the state Racing Commission. This annual payment is scheduled to expire in 1995.)

The Massachusetts Council on Compulsive Gambling is a private non-profit organization that was established in 1983 to:

> inform and educate, to develop resources and materials, to conduct seminars, to operate an information center and clearinghouse for the collection, preparation, and dissemination of information on compulsive gambling.[17]

The Council operates a toll-free problem gambling referral service, conducts public education programs, and receives approximately fifteen calls from problem gamblers and their families each week. The Mount Auburn Center for Problem Gambling is affiliated with Mount Auburn Hospital, a short-term, acute care, private, non-profit general hospital. The Center, which offers in-patient and out-patient services, treats approximately one hundred persons for problem gambling at any one time. There are fewer than four problem gambling treatment centers in the Commonwealth, and the Mount Auburn Center is the only facility that receives public funding.

During the Committee's public hearings on gaming issues, testimony was submitted by the Compulsive Gambling Therapy Center of Worcester, a nonprofit counseling facility. Although Center representatives estimated that thirty percent of all problem gamblers have dual addictions (i.e. drug or alcohol abuse in addition to problem gambling), the Center concentrates solely on the issue of problem gambling. According to a representative, the Center received approximately 250 inquiries in 1993, and provided services to 125 persons, sixty-two of whom remained in treatment in early 1994.[18]

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[16]Chapter 164 of the Acts of 1988.

[17]Office of Massachusetts Attorney General L. Scott Harshbarger, Department of Public Charities.

[18]Interview with representative of Compulsive Gambling Treatment Center, 1 February 1994.

Although problem gambling is universally acknowledged to be a social malady, few states have actively worked to address the condition. The Commonwealth has made a relatively small financial commitment to the issue, allocating less than $300,000 to education and treatment, even though more than $2.5 billion was legally wagered within the Commonwealth in 1993. Other states have allocated even fewer resources.

For example, Minnesota, which has more casinos than Atlantic City, annually appropriates less than $250,000 for compulsive gambling education and treatment programs. The states of New York, Connecticut, and Florida all allocate less than $150,000 for compulsive gambling programs, while Louisiana, which has implemented state-wide electronic gaming and is on the verge of implementing land-based casino gaming, has no annual appropriation for education or treatment programs.[19]

The lack of funding of problem gambling education and treatment programs may be linked to the relative dearth of quantitative research on the prevalence of the problem. Although there is no shortage of anecdotal evidence supporting the condition, few statistical analyses of problem gambling have been conducted. In fact, with one notable exception, the Policy Research Associates-NIMH project, no problem gambling prevalence survey has been conducted within the Commonwealth.[20]

The Massachusetts Department of Public Health did compile, at the request of the Massachusetts Council on Compulsive Gambling, cursory information on incidents of lottery ticket buying by adolescents. The question, included in a 1990 cross-sectional survey measuring drug and alcohol use in secondary schools, asked:

> •How often have you bought lottery tickets (Megabucks, Mass.Millions, Scratchpad) in your lifetime (ever), during the last twelve months (past year), during the past thirty days (past month)?[21]

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[19]Texas and New Jersey both spend in excess of $500,000 per year on problem gambling education and treatment programs. Interview with representative of the Massachusetts Council on Compulsive Gambling, 31 January 1994.

[20]The previously referenced Policy Research Associates-NIMH survey established an important benchmark. It was, however, the first such survey conducted within the Commonwealth. As such, a follow-up study is required to affirm the project's findings.

[21]Interview with representative of Health and Addictions Research, Incorporated, 31 January 1994. The survey was administered in 1990.

The Department of Public Health released a preliminary report on the survey in December 1990. This report did not, however, include any discussion of the data compiled relative to the incidence of adolescent purchases of lottery tickets.[22] To date, no other research on the gambling habits of Massachusetts residents has been sponsored by any agency of the Commonwealth.[23]

Problem Gambling and State Gaming Policy

Problem gambling is a problem in every state, and will remain so regardless of the decision to expand gaming in Massachusetts. According to experts on the subject, state gaming policy affects problem gambling in two ways: by making newly legalized gambling venues 1) more accessible, and 2) more attractive to a wider segment of the population.

The physical act of locating a casino facility in Massachusetts would avail that venue to a segment of society who would otherwise not travel to Las Vegas or Atlantic City. Experts claim that a percentage of this new market could become problem gamblers.

In similar fashion, lending the state's imprimatur to a venue could expand the gaming market. Experts claim that a percentage of this new market could also become problem gamblers. For example, the illegal lottery street number, which was operated by organized crime, was shunned by a large segment of society. In 1972, however, the State Lottery turned the street number into the "Daily Number," which generated revenue for local services and attracted the patronage of thousands of people who would never associate or do business with a "bookie."

There are no data to support the contention that the introduction of electronic gaming, or casino gaming will cause an exponential increase in a state's problem gamblers. Nor are there data to support the contention that gaming venues "cause" problem gambling. Massachusetts currently offers legalized wagering on a narrow array of gaming options. And according to the Policy Research Associates-NIMH survey, approximately 2.1 percent of Massachusetts residents rank as problem gamblers. This percentage is similar, however, to those recorded

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[22]Substance Abuse Services, Department of Public Health, Drug and Alcohol Use Among Massachusetts Adolescents: A Preliminary Report, December 1990.

[23]On 27 January 1994 the Massachusetts Council on Compulsive Gambling and the Zinberg Center for Addiction Studies at Harvard Medical School released a report based upon the 1990 DPH data. Despite its title (The Emergence of Youthful Addiction, The Prevalence of Underage Lottery Use and the Impact of Gambling), the report was not a prevalence study. The students were asked to define incidents of ticket purchases. They were not asked to define their opinions or values of gambling as an activity.

within the states of New Jersey (2.8 percent) which has legalized casino gaming, New York (2.8 percent) which supplies most of the Atlantic City market, California (2.9 percent) which supplies most of the Nevada casino gaming market, or Iowa and Maryland (1.7 and 2.4 percent, respectively).[24]

Furthermore, the percentage of Massachusetts residents who are identified as "probable pathological gamblers" (2.3 percent) is higher than that recorded for New Jersey (1.4 percent), New York (1.4 percent), or California (1.2 percent). If accessibility were the determinant of problem gambling behavior, logic would dictate that New Jersey would list more persons at risk to the condition than the Commonwealth.

Legalization of additional venues would undoubtedly encourage greater participation by the broader population, and testimony indicates that a percentage of this group may develop problem gambling tendencies. However, it is doubtful that state policy only can be held accountable for the condition.

The five most popular venues that problem gamblers reported trying in Massachusetts were card playing, the State Lottery, pari-mutuel wagering, gaming machines, and sports betting. Three of these venues are currently illegal in the Commonwealth. Similar statistics were found in other states: sports betting was listed within the top five venues by problem gamblers in California, Iowa, Maryland, and New Jersey, while gaming machines were so listed within each of the six states surveyed. **(See Table Two: Types of Wagering Tried).**

Problem gamblers gamble regardless of the status of their venue of choice. Data indicate that although a portion of the general public have tried legal and illegal venues, problem gamblers report much higher levels of participation in illegal venues **(see Appendix II: Prevalence Rates of Illegal Wagering Venues)**. For example, the ratio of problem to non-problem sports betting gamblers in California was 2:1. A similar ratio of was found for dice players in Iowa, Maryland, and New Jersey.

An expansion of gaming in Massachusetts may cause a marginal increase in problem gambling. However this increase may just as well occur in response to the expansion of gaming opportunities in Rhode Island, Connecticut, New Hampshire, or New York. Massachusetts

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[24]Gemini Research, Northampton MA.

TABLE TWO

TYPES OF WAGERING TRIED

Problem Gamblers vs. General Population

	CA	IA	MA	MD	NJ	NY
Lottery	86% | 72%	71% | 67%	88% | 79%	93% | 65%	86% | 71%	74% | 66%
Casino	64% | 69%	77% | 30%	67% | 38%	72% | 46%	76% | 72%	71% | 43%
Bingo	45% | 27%	39% | 31%	55% | 29%	62% | 49%	52% | 40%	50% | 38%
Cards	75% | 35%	92% | 38%	91% | 41%	55% | 37%	69% | 34%	60% | 34%
Parimutuels	45% | 29%	62% | 32%	82% | 41%	52% | 31%	50% | 40%	64% | 35%
Stockmarket	16% | 19%	71% | 13%	27% | 21%	28% | 20%	31% | 26%	14% | 19%
Gaming Machines	73% | 65%	62% | 37%	76% | 38%	76% | 48%	64% | 62%	64% | 44%
Games of Skill	47% | 19%	77% | 18%	67% | 17%	52% | 22%	50% | 17%	38% | 18%
Dice	53% | 15%	31% | 18%	52% | 9%	35% | 14%	36% | 12%	33% | 13%
Sports	63% | 29%	69% | 24%	76% | 24%	62% | 28%	60% | 25%	55% | 24%

source: Gemini Research

residents can not be insulated from gaming opportunities, or the hazards of problem gambling. A significant portion of Massachusetts residents are already within a short drive of land-based casino gaming. Current predictions that legalized gambling will be expanded in Rhode Island, Connecticut, New Hampshire, and New York indicate that this residential exposure will only increase. As such, the state should forcefully address the issue of problem gambling.

CONCLUSION AND RECOMMENDATIONS

The question behind the decision to expand gaming in Massachusetts is not dissimilar to the question behind the state's decision to allow liquor stores near the New Hampshire border to open on Sundays and holidays. That decision was based in economic reality, and not with regard to a social condition (problem drinking) that may, or may not, be exacerbated by the policy. The decision to expand gaming in Massachusetts should be based upon similar grounds. While the issue of problem gambling must be addressed, it should not become the sole determinant of whether or not the industry should be allowed to expand in Massachusetts.

Problem gambling is a public health concern, yet it is a danger to only a limited number of people. However, by restricting legalized gambling the state restricts the right of the vast majority of adult citizens to gamble in legal and well-regulated venues of their choice and stands to lose significant financial and economic benefits. The evidence suggests that denying most people the right to enjoy a relatively harmless form of entertainment, denying the state's treasury a much-needed boost, and denying the region much-sought after economic development will not protect a troubled but small percentage of society from their gambling compulsion. Simply stated, the problem gambler will gamble whether it is legal or not. However, their behavior should not restrict the recreational choices that could be legally available to others.

The Committee believes that the Commonwealth must make every effort to provide services and treatment to those who are unable to control their compulsion, just as the state regulates other social activities which may aggravate *compulsive or addictive* behaviors. Massachusetts public policy currently permits and regulates the sale, distribution, and consumption of alcoholic beverages, accommodating those who choose to drink, while possessing the knowledge that upwards of ten percent of alcohol users will do physical harm to themselves and others.

Concurrently, Massachusetts public policy toward gambling is fragmented and irrational. The Commonwealth allows some gaming venues, yet prohibits others, while possessing the full knowledge that less than three percent of those who do gamble are active "problem gamblers" and that these persons chiefly render financial harm to themselves.

The Commonwealth should make every effort to reconcile and make consistent its policy on

gambling as it has attempted to make consistent its policy on drinking.

RECOMMENDATIONS

1) *That the Massachusetts Department of Public Health fund a comprehensive study to measure 1) the prevalence of compulsive, obsessive behaviors in Massachusetts; 2) the prevalence of problem gamblers in Massachusetts; 3) the prevalence of underage problem gamblers in Massachusetts; 4) the social cost of problem gambling in Massachusetts. Said study should also suggest an educational and treatment program applicable to problem gambling in Massachusetts, and include and define the target population to be served by such a program, and outline the required resources.*

2) *That the Massachusetts Department of Public Health, in conjunction with the Massachusetts Council on Compulsive Gambling and the Mount Auburn Center for Problem Gambling, develop and coordinate a state-wide problem gambling education and treatment program. All monies for this program should be funded through the Department of Public Health, including unclaimed prize money from the State Lottery, and revenues generated from racing and gaming facilities throughout the state.*

3) *That the State Lottery annually transfer to the Department of Public Health five percent of their annual advertising budget, to be used to fund a state-wide problem gambling education and treatment program. These monies should be in addition to those currently appropriated from the Lottery's unclaimed prize monies.*

PART TWO: REGULATORY MATTERS

The New England gaming industry has exploded over the past twenty years. While once limited to pari-mutuel racing, bingo and a state lottery, the region's industry now also includes jai'alai, video poker, Keno, and çasino gaming. New England is home to some of the most successful gaming operations in the country. The Massachusetts State Lottery has consistently ranked among industry leaders in terms of per capita sales figures, as has the Rhode Island greyhound racing industry, and the New Hampshire horse racing industry. The Mashantucket Pequot Indian owned Foxwoods Casino at Ledyard Connecticut is purportedly one of the largest and most successful casino operations in the world.

Yet while the gaming industry has grown greatly during the past two decades, the gaming regulatory structure has remained relatively static. Twenty years ago, gaming oversight in Massachusetts was provided by the state Racing Commission and the state Lottery Commission. Today, gaming oversight in Massachusetts is provided by these same two agencies. Both agencies work independent of each other, however, and have made no attempt to coordinate rules, regulations, or policies.[25]

Surprisingly, the Committee found that Massachusetts was not alone in its fragmented approach to gaming regulation. With few exceptions, state governments initiate and implement gaming policy without regard to an overall plan. State racing commissioners generally implement pari-mutuel racing policy without regard to lottery policies, while lottery commissioners generally implement policy without regard to electronic wagering.

The statutes of Nevada and Connecticut are two exceptions to this rule. In 1961 the state of Nevada created a state Gaming Policy Committee, which was composed of the Governor, a member of the state's Gaming Commission, a member of the state's Gaming Control Board, a member of the state Senate, a member of the state Assembly, two members of the general public, and two members of the casino industry. All members were gubernatorial appointees, and served without compensation. The Committee met according to a schedule established by the governor and had the purview to make advisory recommendations in any area relative to gaming in Nevada.

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[25]The Lottery's Racing Action Instant Game represents the sole exception to this statement. However, this game was the direct result of a legislative mandate contained in Chapter 101 of the Acts of 1992.

The Nevada Gaming Policy Committee has the ability to make recommendations about inter-venue cooperation, and whether the state's gaming mix should be expanded, reduced, or maintained.

The state of Connecticut has also created a Gaming Policy Board, however this body also acts as the state's gaming regulator. The Connecticut Division of Special Revenue (which is contained within the Tax Department for administrative purposes) regulates and oversees the Connecticut gaming industry, including the state Lottery, jai'alai, charitable gaming, and pari-mutuel racing. (The Ledyard casino facility is an unregulated Indian gaming site, beyond the scope of state oversight. The Division does have five auditors at the facility to oversee its video wagering component (slot machines); the state receives a percentage of these revenues in exchange for allowing the tribe exclusive rights to the venue.)

The Division of Special Revenue is essentially the administrative arm of the state Gaming Policy Board. The Board, which is composed of five gubernatorial appointees, renders all final decisions with regard to gaming policy in the state. The Gaming Policy Board is also responsible for advising the governor on gaming policy matters, and is statutorily charged with examining "the desirability of expanding, maintaining or reducing the amount of legalized gambling" in Connecticut. The Board's research is conducted by the Division of Special Revenue.

Although most states have not developed a gaming policy board, many have created gaming regulatory agencies. State commissions oversee the thirty-six public (and quasi-public) lotteries which are currently in operation around the country while forty-four separate state racing commissions regulate the pari-mutuel industry.

These regulatory bodies regulate one of the two basic categories of gaming: skilled or unskilled venues. Skilled events, such as pari-mutuel racing, jai'alai, card games, and certain electronic wagering machines (video poker) allow a bettor improved chances of winning through the use of acquired knowledge or skill, and are generally regulated by state racing commissions. Unskilled events, such as state lotteries, charitable games, and bingo, involve random chance, and are generally regulated by state lottery commissions.

Few states merge the oversight of skilled games and unskilled games. State lottery commissions do not oversee pari-mutuel wagering, casino gaming, or card rooms. State racing commissions

do not oversee lottery operations.[26]

In recent years, with the expansion of casino gaming, many states have expanded their oversight capabilities accordingly. The states of Illinois, South Dakota, Colorado, Iowa, Mississippi, Louisiana, New Jersey, and Nevada, which all offer some form of casino gaming, have all developed state gaming commissions. The state of Missouri has also recently developed a gaming commission, although casino gaming has yet to be implemented in that state.

Most state gaming commissions were established one year before casino gaming was introduced into their state's portfolio. State gaming commissions regulate land or water-based casino gaming, and are responsible for establishing regulatory strictures, enforcing statutory compliance, and rendering licensure decisions. They are composed of gubernatorial appointees, whose policy directives are implemented by a subordinate agency, the state gaming board, whose director is generally appointed by, and answerable to, the commission.

The Committee found that state gaming commissions are constructed around one of two basic regulatory models:

- a part-time commission which delegates authority to a full-time board; or
- a full-time, policy oriented commission which implements policy through a regulatory agency.

The Nevada Gaming Commission and the New Jersey Casino Control Commission are examples of the two basic regulatory models.

- The Nevada Gaming Commission is a part-time commission that is responsible for setting broad licensing policy, and for making final decisions with respect to license applications. The Nevada Gaming Commission, however, cedes operational and regulatory oversight to its subordinate agency, the Nevada Gaming Control Board, which is staffed by full-time employees and independently sets administrative and regulatory policy.

- The New Jersey Casino Control Commission is composed of three full-time Commissioners who oversee the day-to-day operation of the commission, set the state's gaming policy, and actively regulate the state's gaming industry. The New Jersey commission does not, however, implement licensing investigations. All investigative functions are carried out in New Jersey by the state's Attorney General.

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[26]Electric wagering and bingo are exceptions to this rule; the Rhode Island, Oregon, South Dakota, and West Virginia state lotteries regulate the former, while the Iowa, Mississippi, and Nevada state gaming commissions regulate the latter.

State gaming commissions are responsible for approving state gaming licenses. Prospective license-holders must undergo strict background investigations and criminal history checks. To minimize conflicts of interest many states have separated the functions of license-holder investigation and license-holder approval. For example, while the gaming commissions of Louisiana, Iowa, and Illinois all render the final decision relative to license approval, license investigations in these states are conducted by their departments of public safety.

Characteristics of State Gaming Commissions

Examples of state gaming commission characteristics include:

Illinois Gaming Board

- created in March 1990 (gaming implemented 1991)
- five gubernatorially appointed commissioners
- part-time commission, meets monthly
- commission appointed administrator
- enforcement, finance, and audit staff hired by sundry deputy administrators; total staff of forty-five
- policy set by commission and administrator
- investigations carried out by enforcement division via contractual agreement with state police
- commission oversees casino gaming

South Dakota Commission on Gaming

- independent commission (within Department of Commerce for budgetary authorization)
- created in April 1989 (gaming implemented November 1989)
- five gubernatorially appointed commissioners
- part-time commission, meets monthly
- commission appointed executive director
- staff hired by director; total staff of sixteen
- policy set by commission
- commission implements investigations
- commission oversees pari-mutuel racing and casino gaming

Colorado Division of Gaming

- within Department of Revenue
- created in June 1991 (gaming implemented October 1991)
- five gubernatorially appointed commissioners
- part-time commission, meets monthly
- director of Department of Revenue appoints executive director of gaming board
- staff hired by gaming board director; sixty-two total staff
- policy set by commission
- commission implements investigations
- commission oversees limited stakes casino gaming

Iowa Division of Racing and Gaming

- within Department of Inspections and Appeals;
- gaming added to Division in April 1989 (gaming implemented April 1991)
- five gubernatorially appointed commissioners
- part-time commission
- commissioners appoint administrator
- administrator hires staff; total staff of forty
- policy set by commission
- Department of Public Safety's Division of Criminal Investigation implement investigations
- commission oversees pari-mutuel racing, bingo, and casino gaming

Mississippi Gaming Commission

- independent commission (separated from Tax Commission in 1993)
- created in October 1992 (gaming implemented October 1992)
- four gubernatorially appointed commissioners
- commission appoints executive director
- executive director hires staff; total staff of fifty-seven
- policy set by commission
- commission implements investigations
- commission oversees bingo, and casino gaming

Louisiana Gaming Commission

- independent commission
- created in 1992 (gaming implemented 1993)
- seven gubernatorially appointed commissioners
- board's executive director and employees work for the state's attorney general
- administrative policy set by commission
- regulatory policy set by state police
- state police implement investigations
- commission oversees casino gaming

New Jersey Casino Control Commission

- within office of New Jersey state Treasurer
- created in 1977 (gaming implemented in 1978)
- five gubernatorially appointed members, confirmed by the Senate
- commission appoints executive secretary
- commission hires staff; total staff of 383
- policy set by commission
- New Jersey Attorney General's Division of Gaming Enforcement implements investigations
- commission oversee casino gaming

Nevada Gaming Commission/ Nevada Gaming Control Board

- independent commission
- created in 1955 (gaming implemented 1931. Previous oversight rendered on county and city level)
- Commission: five gubernatorially appointed members
- Board: three gubernatorially appointed members, one of whom is chairman, and who serves as board's executive secretary
- executive secretary hires staff; total staff of 372
- licensing policy is set by Commission

- administrative and regulatory policy is set by Board
- commission implements investigations
- commission oversees casino gaming, charitable gaming, and bingo.

There are no ex officio gaming commission members. Each state gaming commission surveyed by the Committee is made up of gubernatorial appointees who are often required to possess training or expertise in specific fields. For example:

- Directors of the Louisiana Economic Development and Gaming Corporation must provide the President with "private-sector perspectives on the operation of a large gaming enterprise."

- Members of the Colorado Limited Gaming Control Commission must include a person with at least five years of law enforcement experience, an attorney, a certified public accountant; a person engaged in business management, and a registered voter.

- At least one member of the Illinois Gaming Board must be experienced in law enforcement, at least one a certified public accountant, and at least one an in-state practicing attorney.

Many states statutorily prohibit certain individuals from gaming commission appointments:

- New Jersey Casino Control Commission employees can not have been employed in a Commission-regulated position for three years prior to their prospective employment date, and are prohibited from similar employment two years after leaving the Commission.

- No member of the Iowa Racing and Gaming Commission may place a wager on any race or casino regulated by the Commission.

- The states of New Jersey and Nevada prohibit members of the legislature from serving on their gaming commission.

- Nevada prohibits anyone who is a member of any committee of any political party from serving on its gaming commission.

- No member of the South Dakota Commission on Gaming may hold more than two consecutive three year terms.

State gaming commissions may be statutorily charged with performing extra-regulatory research duties. The New Jersey Casino Control Commission is charged with carrying on "a continuous study of the operations and administration of casino control laws" and "federal laws which may affect the operation of casino gaming" in the state. This statute, similar from that found in virtually every state's lottery statute, mandates that the gaming commission advise policy makers of changes that must be made to preserve their respective market share and

revenue flow.

Examples of other Commission related duties include:

- The Nevada Gaming Commission:
  - to inspect all premises wherein gaming is conducted or gambling devices manufactured;
  - to inspect all equipment and supplies in such premises;
  - to seize any equipment or supplies for examination and inspection;
  - to demand access to and inspect papers, books, and records of applicants on their premises.

- The Colorado Limited Gaming Control Commission:
  - to promulgate such rules and regulations governing the licensing, conducting, and operation of limited gaming;
  - to formulate and recommend statutory changes;
  - to issue licenses to those involved in limited gaming;
  - to establish and collect fees and taxes.

- The New Jersey Casino Control Commission:
  - to grant license applications;
  - to conduct hearings pertaining to civil violations of the gaming act;
  - to promulgate regulations;
  - to collect license and registration fees;
  - to levy and collect penalties for violations of the gaming act;
  - to inspect and investigate casino operations, and rules upon complaints by casino licensees regarding investigative procedures which are disruptive to casino operations.

Some states, such as Colorado and Nevada, have provided their gaming commissioners, and certain staff, with police powers. These powers allow interaction and information sharing with federal, state, and local law enforcement agencies. According to the Federal Bureau of Investigation, providing a gaming commission with police power is especially useful during license application approval processes.

Gaming Regulation in Massachusetts

Massachusetts does not have a comprehensive gaming regulatory body. Unskilled gaming oversight is provided by the Massachusetts State Lottery Commission, while skilled gaming oversight is provided by the state Racing Commission.

The Lottery Commission is composed of five members, three of whom are ex officio (the state Treasurer, the state comptroller, and the secretary of public safety), and two who are gubernatorial appointees. The state Treasurer serves as the Lottery Commissioner.

The state Racing Commission is composed of three gubernatorial appointees, one of whom serves as the state's full-time racing commissioner, and two part-time associate commissioners who attend weekly commission meetings. The Racing Commissioner is statutorily charged with devoting "his full time during business hours to his official duties." All commission members receive compensation for their duties.

The Lottery Commission is statutorily charged with conducting and determining various aspects of the state's lottery, and is empowered to establish and revise the lottery's rules and regulations.

The Racing Commission is charged with approving racing applications, and with overseeing, regulating, and enforcing the rules of the state's pari-mutuel racing industry.

The Massachusetts State Lottery Commission is not a policy making body. It meets irregularly and rarely in full attendance. Commission minutes show that, from March 1991 through December 1992, the Commission met eleven times, during which the state treasurer attended all of the meetings, the state comptroller attended 81 percent of the meetings, the two gubernatorial appointees each attended 63 percent of the meetings, and the secretary of public safety attended less than 40 percent of the meetings.

State Lottery policy is initiated and implemented by the state Treasurer and the Lottery's executive director, who is appointed by the Treasurer. Although charged with approving certain contractual agreements, a review of meeting minutes indicates that the Commission does not vote to approve changes in Lottery policy, or to request public policy research.[27]

The Massachusetts State Racing Commission, on the other hand, is a policy making body. The Commission meets weekly, and votes on policy when adding to or amending previously

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[27]A review of "Lottery-By-Phone" provides a concise example of the Commission's role (or lack thereof) in the initiation and implementation of Lottery policy [See Senate No. 1480, April 13, 1992]. For example, the Commission never voted to approve Lottery-By-Phone, a program which violated Massachusetts general law, or to request public policy research on the program, despite M.G.L. Ch. 10 S. 24, which charges the Commission with making "a continuous study and investigation of the operation and administration of similar laws in other states or countries, of any literature on the subject which from time to time may be published or available, of any federal laws which may affect the operation of the lottery, and of the reaction of citizens of the commonwealth to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to better serve and implement the purposes of the state lottery law" and reporting "immediately to the Governor and the General Court any matters which require immediate changes in the laws of the commonwealth in order to prevent abuses and evasions of he lottery law or rules and regulations. . . ."

sanctioned state racing policy.[28] The Racing Commission is not charged with conducting on-going research relative to the state's pari-mutuel racing industry.

There is no on-going dialogue between the state Racing Commission or the state Lottery Commission. Consequently, the Massachusetts gaming industry is its own best competition. Except for one legislatively mandated racing sweepstakes program,[29] the state Lottery has never developed an inter-agency initiative with the pari-mutuel industry. The Lottery has, however, established a presence at pari-mutuel facilities. State lottery sales agents are located at each pari-mutuel facility in the state, as are Instant Game ticket vending machines and Keno counters.

In 1993 over $9.4 million was wagered on the state Lottery at the state's four pari-mutuel racing facilities. While this represents less than 0.4 percent of the total amount wagered on the Lottery during 1993 it represents approximately three percent of the total amount wagered on pari-mutuel events, and is, arguably, revenue that was diverted from the state pari-mutuel racing industry.[30]

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[28]For example, the following was sent to the Secretary of Consumer Affairs by the Chairman of the State Racing Commission on January 2, 1992:

"On Friday, December 27, 1991, Sterling Suffolk verbally requested permission of the Commission to sell the signal of their live cards effective January 1, 1992 to out of State (sic) entities. They attended a meeting at the Commission Offices to request this permission but did not provide contracts or proposals. I informed Sterling Suffolk that no permission could be considered without a review of the contracts and the Laws and Regulations regarding this request. I also informed Sterling Suffolk that I would be available 24 hours a day from that point on to review the contracts. On Monday, December 30, 1991 at 1 p.m. I was handed a single contract to simulcast with Rockingham, N.H. Sterling Suffolk informed me that a decision was necessary by 6 p.m. that same evening. I requested through your office a ruling from the Attorney General whether the Commission has the authority to grant such a request. Your office informed me that the Attorney Generals (sic) Office returned said request and advised to seek opinion from our own counsel.

"I telephoned (counsel) who advised after review that the Commission did not have the authority to grant permission to simulcast. Using this advice and the fact that the contract between Suffolk and Rockingham provided no takeout for the State, Breeding, Tufts, or the Promo Fund I cast my vote in the negative. The 2 Associate Commissioners (were) aware of the same advice and facts and voted affirmatively. By this vote Suffolk began simulcasting January 1, 1992.

"I have been in conversation with both (chairmen of the Joint Legislative Committee on Government Regulations) who have informed me they view this as a circumvention of existing law and an act out of the authority of the Commission.

"For the purpose of being on the record, I am informing you that the decision of this Commission was short sighted and not in the best interests of the State, or Racing in general. I have been in communication with counsel, and am reviewing this entire matter."

[29]Section seven of chapter 101 of the Acts of 1992 directed the Lottery Commission to conduct a racing sweepstakes game in conjunction with, and for the benefit of, the Massachusetts pari-mutuel racing industry.

[30]As a lottery sales agent, the pari-mutuel facility license holder retains five percent of all lottery sales made at his facility and a percentage of the winning ticket prize monies. The following represents the total Lottery sales made at each track in 1993: Raynham Park = $6,426,001; Suffolk Downs = $1,383,217; Wonderland Park = $1,172,274; Foxboro Park = $418,759.

CONCLUSION AND RECOMMENDATIONS

The Committee believes that the Commonwealth must update, and streamline its approach to gaming oversight in Massachusetts. The Commonwealth is attempting to regulate one of the fastest growing sectors of the economy with an outdated regulatory structure. Left unchanged, this structure will not adequately address the realities of the gaming industry.

Most realistic observers of the industry agree that expanded gaming is coming to Massachusetts, in some fashion, in the very near future. This will come about under one or more of the following actions:

- the development of unregulated Indian casino gaming;
- the development of off-track betting;
- the development of electronic (video) wagering machines;
- the development of regulated casino gaming.

Poorly planned, any of these actions could have a detrimental impact on the state's existing gaming venues. For example, the implementation of a single unregulated Indian casino facility that held exclusive rights to electronic wagering could destroy the state's pari-mutuel industry.

The Commonwealth does not have an agency that can plan the state's gaming policy. Policy decisions that favorably affect one segment of the industry may have an unfavorable impact on another segment. A venue change that is beneficial to the state Lottery may adversely affect the pari-mutuel industry. To control the impacts of intra-state competition, the Committee believes that the Commonwealth must develop a state-wide gaming policy board.

This board should be required to meet regularly, and define the state's overall gaming policy, including the maximization of state revenue, the use of gaming as an economic stimulant and source of employment, and the desirability of retaining revenues that would otherwise flow beyond the state's border.

The board should also annually formulate the state's gaming advertising policy including,

1) defining the goal of such advertising (stabilization or maximization),
2) devising basic guidelines (i.e. prohibiting Lottery sponsorship of events targeted at adolescents and minors),
3) constructing disclaimer messages (i.e. the Lottery is entertainment and should not be looked to as a source of economic support), and
3) maximum budgetary outlays.

State gaming advertising policy should mandate that a set percentage of the advertisement budget be set aside and allocated to the Department of Public Health for problem gambling education and treatment programs (*see Section One, Recommendation Three*).

The gaming policy board should be required to annually file legislation affirming the preservation, expansion, or reduction in the state's gaming mix. This decision should be based on a number of factors, one of which should be the economic benefits of the particular type of gaming. Decisions about the state's gaming mix should remain independent from decisions about the state's gaming regulatory structure. The Committee believes that sound regulation is best maintained when a degree of tension exists between an industry and its regulator, so that the function of regulation does not become a captive of the industry's success.

As such, the state should also create a state gaming commission to develop, implement, oversee, and regulate all skilled gaming in the Commonwealth, with the exception of pari-mutuel racing. This commission should be made up of three full-time commissioners, appointed by the governor, who devote their full attention and duties to the development, regulation, and oversight of casino gaming, and electronic wagering in Massachusetts.

The commission, which would be responsible for approving (and annually renewing) licenses for gaming facilities in Massachusetts, should have broad oversight and regulatory powers, which enable it to establish rules and regulations, and demand conformance and compliance with those regulations. For example, it should be empowered:

- to devise maximum per capita venue limits (i.e. the number of video wagering machines per 10,000 municipal residents) to prevent geographic targeting by the industry, and
- to devise any applicable betting and loss limits.

The commission's regulatory oversight should extend beyond gaming license-holders and include businesses and corporate entities that provide ancillary services to the license-holder. Furthermore, the commissioners, and certain commission employees, should be empowered with fundamental law enforcement powers to facilitate information sharing with federal, state, and local law enforcement agencies.

Annual operating appropriations should be funded through an annual assessment placed upon the gaming license holders. It should be made clear that no applicant for a gaming license in

Massachusetts has any right to such a license. Any state gaming license that is granted by the state is revocable by that same state.

A state gaming commission should be authorized:

- to promulgate regulations, and demand conformance and compliance to same;
- to approve, renew, or suspend gaming licenses (after requisite investigations, which should be conducted by the offices of the state Attorney General);
- to collect license and registration fees;
- to inspect all premises wherein gaming is conducted or gambling devices manufactured, and to inspect all equipment and supplies in such premises;
- to implement and inspect a series of internal controls to safeguard against improper fiscal procedures;
- to demand access to and inspect papers, books, and records of applicants on their premises;
- to levy and collect penalties for violations of gaming regulations;
- to continuously investigate and research gaming policy issues and tender non-binding advice to the governor on statewide plans and goals for legalized gambling.

Research indicates that, in many states, gaming commissions were created well in advance of the venues that they later regulated. The Committee believes that the public policy of the Commonwealth would now be best served by the creation of a state gaming commission to oversee the development of the Massachusetts skilled gaming industry.

RECOMMENDATIONS

1) *The Commonwealth should establish a Massachusetts Gaming Policy Board, composed of the Lieutenant Governor of the Commonwealth, the Attorney General, the state Treasurer, the secretary of Consumer Affairs, the state Racing Commissioner, the executive director of the Massachusetts state Lottery, the Secretary of Public Safety, and the commandant of the Massachusetts State Police.*

2) *The Commonwealth should establish a Massachusetts State Gaming Commission.*

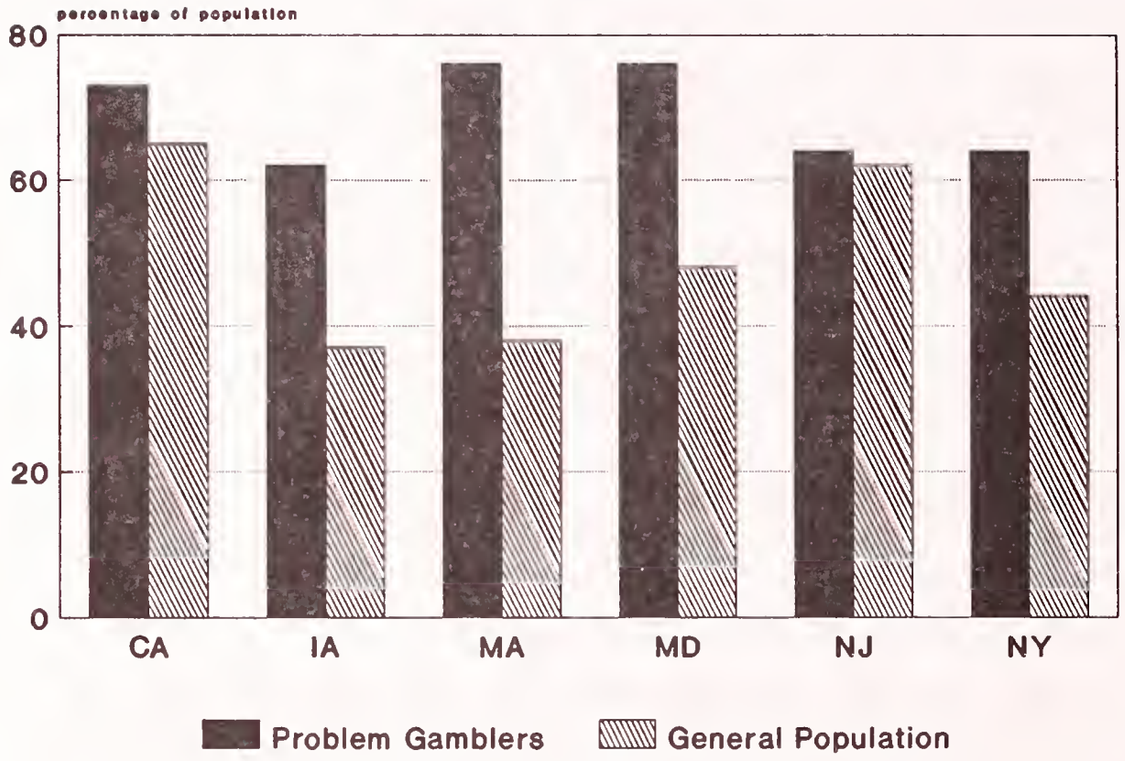
APPENDIX I
Gamblers Anonymous Screen

(A person answering "yes" to seven of these questions would be defined as a problem gambler by Gamblers Anonymous.)

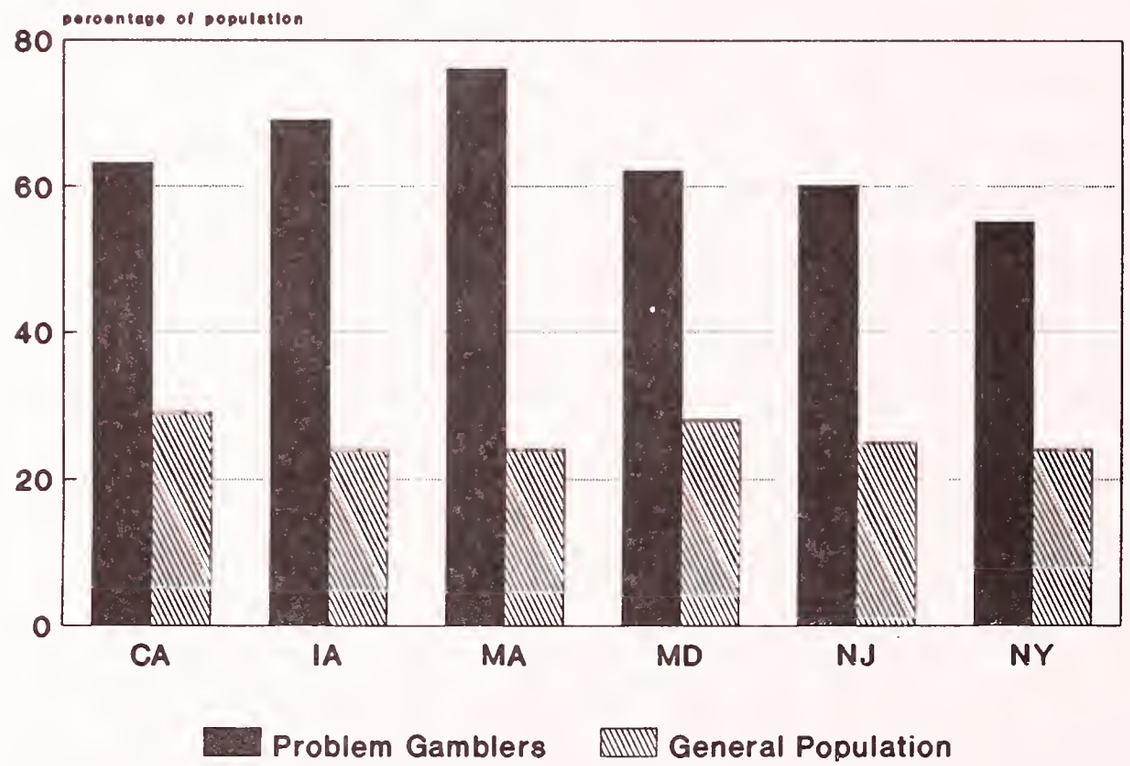
1. Did you ever lose time from work due to gambling?
2. Has gambling ever made your home life unhappy?
3. Did gambling affect your reputation?
4. Have you ever felt remorse after gambling?
5. Did you ever gamble to get money with which to pay debts or otherwise solve financial difficulties?
6. Did gambling cause a decrease in your ambition or efficiency?
7. After losing did you feel you must return as soon as possible and win back your losses?
8. After a win did you have a strong urge to return and win more?
9. Did you often gamble until your last dollar was gone.?
10. Did you ever borrow to finance your gambling?
11. Have you ever sold anything to finance gambling?
12. Were you reluctant to use "gambling money" for normal expenditures?
13. Did gambling make you careless of the welfare of yourself and your family?
14. Did you ever gamble longer than you had planned?
15. Have you ever gambled to escape worry or trouble?
16. Have you ever committed, or considered committing, an illegal act to finance gambling?
17. Did gambling cause you to have difficulty in sleeping?
18. Do arguments, disappointments or frustrations create within you an urge to gamble?
19. Did you ever have an urge to celebrate any good fortune by a few hours of gambling?
20. Have you ever considered self destruction as a result of your gambling?

APPENDIX II
Prevalence Rates of Wagering on Illegal Venues

Gaming Machines

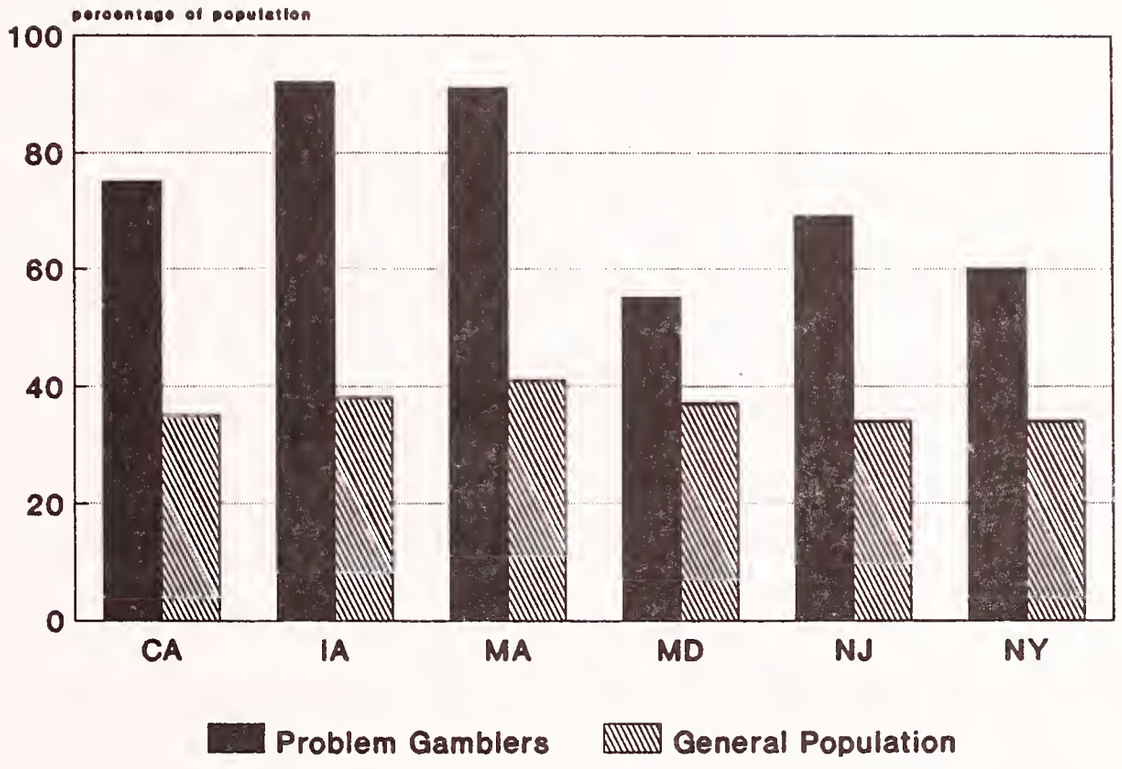


Sports Betting



source: Gemini Research

Card Gambling



source: Gemini Research

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